

TOWNSHIP OF SPENCER

KENT COUNTY, MICHIGAN

ZONING ORDINANCE



Adopted by the Township Board on

February 15, 2000

(Including amendments adopted through June 2024)

**Township of Spencer
County of Kent, Michigan**

ZONING ORDINANCE

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CHAPTER 1

TITLE, PURPOSE AND INTERPRETATION

Section 1.01 Title. This Ordinance shall be known and may be cited as the Spencer Township Zoning Ordinance.

Section 1.02 Purpose. This Ordinance has the purpose and is intended to promote the public health, safety and general welfare; to encourage the use of land in accordance with the character and adaptability of the land and also to limit the improper use of land; to conserve natural resources and energy to meet the needs of the public for food, fibre and other natural resources, places of residence, recreation, industry, trade, service and other uses of land; to ensure that uses of land shall be situated in appropriate locations and relationships; to avoid the overcrowding of population; to provide adequate light and air; to lessen congestion on the public roads and streets; to reduce hazards to life and property; to facilitate adequate provisions for transportation uses, sewage disposal, safe and adequate water supply, education, recreation and other public requirements; and to conserve the expenditure of funds for public improvements and services so as to obtain the most advantageous uses of land, resources and other property interests.

Section 1.03 The Effect of Zoning. Except as stated in this Ordinance, no land, building, structure or premises within the Township shall be used or occupied, and no building, structure or part thereof shall be erected, razed, moved, placed, reconstructed, extended, enlarged or altered.

Section 1.04 Scope.

- (a) The provisions of this Ordinance shall be in addition to all other ordinances and regulations in effect within the Township. This Ordinance shall not repeal, abrogate, annul or in any way impair or interfere with existing provisions of other ordinances or regulations, except as specifically stated herein, nor shall this Ordinance repeal or affect private restrictions or restrictive covenants, all of which shall continue to have whatever effect may be imparted to them by law.
- (b) Where this Ordinance imposes greater restrictions, limitations or requirements upon the use of lands, buildings and structures than are imposed or required by other laws, ordinance, regulations, private restrictions or restrictive covenants, the provisions of this Ordinance shall control.

Section 1.05 Legal Basis. This Ordinance is adopted pursuant to the Michigan Zoning Enabling Act, Public Act 110 of 2006.

CHAPTER 2

DEFINITIONS

Section 2.01 Rules of Construction. The following rules of construction shall apply to the interpretation of this Ordinance.

- (a) If in a particular circumstance, the meaning of a word, phrase, section or other portion of this Ordinance is unclear, then the person, board or commission charged with interpreting or applying the Ordinance shall construe the provision so as to carry out the intent and purpose of the Ordinance, if such intent and purpose can be discerned from other provisions of the Ordinance or from applicable law.
- (b) All words and phrases shall be construed and understood according to the common and preferred use of the language; technical words and technical or specialized phrases, such as may have acquired a peculiar and appropriate meaning and the law shall, however, be construed and understood according to such peculiar and appropriate meaning.
- (c) Unless the context clearly requires otherwise, every word or phrase denoting the singular may extend the plural, and every word or phrase denoting the plural may extend to the singular.
- (d) The word “shall” is mandatory and not discretionary. The word “may” is permissive.
- (e) The particular shall control the general.
- (f) The word “person” includes an individual, a corporation, a partnership, an association, a limited liability company, an agent or any other similar person or entity.
- (g) Words and phrases not defined herein shall have the meaning customarily attributed to them.
- (h) A “building” or “structure” includes any part thereof, unless the context indicates otherwise.
- (i) In computing a period of days, the first day is excluded and the last day is included.

Section 2.02 Definitions – A through E.

- (a) **Accessory Building, Structure or Use.** A building, structure, or use on the same parcel of land with, and of a nature which is customarily incidental and subordinate to, the principal building, structure, or use.

- (b) **Adult Foster Care Family Home.** A private residence in which six or fewer adults are given care and supervisions for five or more days a week. The home shall be licensed by the state agency having jurisdiction. The home licensee shall be a member of the household and an occupant of the residence.
- (c) **Agriculture.** The cultivation, tilling or use of soil for the purpose of growing or storing crops thereon or use of land for the purpose of animal or poultry husbandry, including the preparation and marketing of agricultural products for commercial purposes.
- (d) **Basement.** That portion of a building which is partly or wholly below the grade of the land, but is so constructed that the vertical distance from the average grade of the land down to the floor of the basement is greater than the vertical distance from the average grade of the land to the ceiling of the basement. A basement shall not be counted as a story.
- (e) **Bed and Breakfast Establishment.** A private residence that offers overnight accommodations to lodgers in the innkeeper's (owner or operator) principal residence and serves breakfasts at no extra cost to its lodgers. For the purpose of this definition, a lodger means a person who rents a room in a bed and breakfast establishment for fewer than 30 consecutive days.
- (f) **Billboard.** A free-standing sign which directs attention to commercial or non-commercial goods, services, uses or messages not located on the site, land or property where the billboard is located.
- (g) **Building.** Any enclosed structure having a roof supported by columns, walls, or other support used for the purpose of housing or storing of persons, animals, or property, or carrying out of business activities, or similar uses.
- (h) **Building Height.** The vertical distance measured from the lowest point of elevation of the surface of the ground or finished material anywhere around the perimeter of a building, to the highest point of the roof surface of flat roofs, to the deck of mansard roofs, and to a point which is half way between the eaves and the ridge of gable, hip, or gambrel roofs.
- (i) **Cluster Housing.** An arrangement of single family detached dwellings in a land development in which the dwellings are generally located on smaller lots than might otherwise be expected, and in which the dwellings are placed in separate or particular areas of the land, with the result that a significant portion of the overall land area of the development remains in open space, without buildings or other improvements.
- (j) **Commercial Storage Warehouse.** Any building or buildings used primarily as a commercial business for the storage of goods and materials.

- (k) **Cul-de-sac.** A street having one terminus open for vehicular or pedestrian access and the other terminus ending in a vehicular turn-around area or other form of street termination.
- (l) **Deck.** A flat structure made of wood or other durable material located on the ground or on other foundation, and used for the purposes of a patio or other space, to be occupied for leisure or other residentially-related purposes. A deck shall not include a building, either in whole or in part.
- (m) **Driveway.** An improved or unimproved path or road extending from a public or private street or other right-of-way to not more than one building, dwelling or parcel of land, and which is intended to provide the primary means of access to one building, dwelling, or parcel of land.
- (n) **Drive-in or Drive-through Facilities.** Any facility used to serve patrons of a business while in their motor vehicles, either exclusively or in addition to service within a building or structure.
- (o) **Dwelling, Multiple Family.** A building designed for occupancy by three or more families living independently of each other.
- (p) **Dwelling, Single Family Detached.** A detached building designed exclusively for and occupied exclusively by one family.
- (q) **Dwelling, Two Family.** A building used for occupancy by two families living independently of each other.
- (r) **Dwelling Unit.** A building, or portion of a building, designed for use and occupancy by one family for living and sleeping purposes, with housekeeping facilities.
- (s) **Essential Public Service Structures or Buildings.** Buildings or structures owned and operated by public utilities or municipal departments and used for gas, electrical, steam, fuel, water or sewage treatment or disposal, electrical substations, sewage lift stations which are not located entirely underground, and similar structures or buildings necessary to furnish adequate service within the Township, but not including essential public service equipment.
- (t) **Essential Public Service Equipment.** Wires, mains, drains, sewers, pipes, valves, pumps, conduits, cables, fire alarm and police call boxes, traffic signals, fire hydrants, post office boxes, street lights, or similar equipment, but not including essential public service structures or buildings.

Section 2.03 Definitions – F through L.

- (a) **Family.**
- (1) An individual or group of two or more persons related by blood, marriage, or adoption, together with foster children and servants of the principal occupants who are domiciled together as a single, domestic, housekeeping unit in a dwelling unit; or
 - (2) A collective number of individuals domiciled together in one dwelling unit whose relationship is of a continuing, nontransient domestic character and who are cooking and living as a single nonprofit housekeeping unit. This definition shall not include any society, club, fraternity, sorority, association, half-way house, lodge, coterie, organization, group of students, or other individuals whose domestic relationship is of a transitory or seasonal nature, is for an anticipated limited duration of a school term or during a period of rehabilitation or treatment, or is otherwise not intended to be of a permanent nature.
- (b) **Family Day Care Homes.** A private residence in which less than seven minor children are given care and supervision for period less than 24 hours per day, operated by a person who permanently resides as a member of the household, which is registered with the Michigan Department of Social Services.
- (c) **Farm.** A parcel of land of not less than ten acres in area within which land area, buildings and other facilities and property are used for the commercial cultivation, growing and harvesting of crops and/or the commercial raising of livestock.
- (d) **Fence.** Any partition, structure, enclosure or gate erected as a dividing structure, barrier or enclosure, and not part of a structure requiring a building permit.
- (e) **Floor Area.** The sum of the total horizontal areas of all floors of the building in question, measured from the exterior walls, but not including below-ground furnace rooms, crawls spaces, porches, attics, attached garages and other non-living space or area.
- (f) **Greenbelt.** A planting strip or landscaped buffer strip.
- (g) **Home Occupation.** An occupation or profession customarily or traditionally carried on in the home and that is incidental and secondary to the use of the home as a dwelling place.
- (h) **Intensive Livestock Operations.** An agricultural operation entailing the feeding and production of livestock with 300 or more cattle, 600 or more swine, goats or sheep, or 10,000 or more fowl.
- (i) **Junkyards, or Salvage Yard.** An open area where waste, used, or second hand materials are bought and sold, exchanged, stored, bailed, packed, disassembled,

crushed, melted, or otherwise handled. Scrap materials include but are not limited to: scrap iron and other metals, paper, rags, tires, bottles, automobiles and automobile parts, wood and construction materials.

- (j) **Kennel.** Any lot or premises on which three or more dogs, cats, or other household pets, six months of age or older, are either permanently or temporarily boarded for commercial purposes.
- (k) **Land Services.** The providing of certain non-agricultural services to and for land, but consisting only of the following uses and activities:
 - (1) The parking and storage of commercial vehicles and other commercial equipment used for landscape services and maintenance off the premises.
 - (2) The parking and storage of commercial vehicles and other commercial equipment used in seepage hauling and disposal.
 - (3) The parking and storage of commercial earth-moving vehicles and commercial earth-moving equipment for use off the premises.
 - (4) The parking and storage of other commercial land service vehicles and equipment such as, but not limited to, well drilling equipment, snow plowing equipment and other similar commercial vehicles and equipment, where no business activities are conducted on the premises.

Land services may include such accessory uses as buildings for the storage of vehicles, supplies and equipment, the outdoor parking of vehicles and the outdoor storage of equipment and apparatus. Land services shall not include agricultural uses, removal of natural resources, the building of roads, the excavation of lands or the building or use of improvements that are not involved in such land services or that are not accessory thereto.

- (l) **Loading Space.** Off-street space intended for the temporary parking of a vehicle while loading and unloading materials.
- (m) **Lot.** A parcel of land which is separately described on a deed or other instrument recorded in the office of the Register of Deeds, whether by metes and bounds description, as part of a platted subdivision, condominium unit intended for individual ownership and use, or otherwise.
- (n) **Lot Area.** The total horizontal area defined by a flat plane intersecting vertical extensions of the lot corners so that area created by contour is not included. Where the area of a parcel of land may extend to the centerline of a public street or private street, or where a portion of a lot lies within a public street right-of-way or private street right-of-way, the area inside the street and the street right-of-way shall be excluded when calculating lot area for purposes of this Ordinance.

- (o) **Lot Depth.** The horizontal distance between the front and rear lot lines of interior and corner lots, or the two front lines of a through lot, measured along the median line between the side lot lines.
- (p) **Lot Lines.** The lines bounding a lot as defined herein:
 - (1) **Front Lot Line.** In the case of an interior lot, the line separating the lot from the adjacent public street right-of-way or private street right-of-way. Through and corner lots shall be considered to have two front lot lines, consisting of the lines separating a through lot or a corner lot from each of the street rights-of-way abutting the lot. In the case of a waterfront lot, the front lot line is the shoreline of the body of water.
 - (2) **Rear Lot Line.** That lot line opposite and most distant from the front lot line. In the case of a corner lot, the property owner may treat one of the lot lines opposite either of the two front lot lines as the rear lot line. In the case of a triangular lot, the rear lot line shall be an imaginary line parallel to the front lot line, not less than ten feet long, lying farthest from the front lot line or wholly within the lot. A through lot has no rear lot line.
 - (3) **Side Lot Line.** The lot lines connecting the front and rear lot lines of an interior lot line or connecting the front lot lines of a through lot; and the one lot line connecting the front and designated rear lot line of a corner lot.
- (q) **Lot of Record.** A parcel of land which is separately described on a plat, condominium document, or metes and bounds description, recorded in the office of the county Register of Deeds as of a specified date.
- (r) **Lot Width.** The horizontal straight line distance between the side lot lines of an interior lot or through lot, or designated side and opposite front lot line of a corner lot, measured at the minimum required front yard setback.

Section 2.04 Definitions – M through R.

- (a) **Manufactured Home.** A structure, transportable in one or more sections, which is built on a chassis and designed to be used as a dwelling with or without permanent foundation, when connected to the required utilities and includes the plumbing, heating, air-conditioning, and electrical systems contained in the structure, excluding, however, a vehicle designed and used as temporary living quarters for recreational, camping, or travel purposes, including a vehicle having its own motor power or a vehicle moved on or drawn by another vehicle. Also referred to as a “mobile home” in this Ordinance.
- (b) **Manufactured Housing Community.** A parcel or tract of land under the control of a person upon which three or more manufactured homes are located on a continual, non-recreational basis and which is offered to the public for that purpose regardless of whether a charge is made therefor, together with any

building, structure, enclosure, street, equipment, or facility used or intended for use incident to the occupancy of a manufactured home or mobile home. Also referred to as a “mobile home park” in this Ordinance.

- (c) **Master Plan.** The long range land use currently adopted by the Township Planning Commission and any amendment to such plan.
- (d) **Mobile Home.** A structure, transportable in one or more sections, which is built on a chassis and designed to be used as a dwelling when connected to the required utilities, and includes the plumbing, heating, air-conditioning and electrical systems contained in the structure.
- (e) **Motel/Hotel.** A building or group of buildings on the same lot, containing sleeping or dwelling units, in which lodging is provided for compensation on a transient basis.
- (f) **Nonconforming Building.** A building or portion thereof lawfully existing at the effective date of this Ordinance or amendments thereto, but not conforming to the current provisions of the zoning ordinance.
- (g) **Nonconforming Use.** A use or activity lawfully existing on the effective date of this Ordinance or amendments thereto but not conforming with the current provisions of the zoning ordinance.
- (h) **Off-street Parking Lot.** A facility providing parking spaces, along with adequate drives, maneuvering areas, and aisles, for the parking of more than three vehicles, other than in connection with a single family dwelling.
- (i) **Open Air Business.** A business, a substantial part of which involves activities or the display and sale of goods outside of a building, including motor vehicle and boat sales, mobile home sales, lawn and garden centers, golf driving ranges, and similar uses.
- (j) **Planned Unit Development.** A land development project that is under unified control and is planned and developed as a whole, either in a single land development project or in a series of stages of development, over a period of time. A planned unit development (PUD) may take place only if approved under the PUD district provided for in Chapter 11. A planned unit development is developed in accordance with a specifically-approved plan for the development, and it may include buildings and other improvements, streets, walkways, utilities, storm water drainage areas, landscaping, outdoor lighting, signage, open spaces and other site features and improvements.
- (k) **Principal Building.** The building in which the principal use is located.
- (l) **Principal Use.** The primary use to which the premises are devoted.

- (m) **Recreational Vehicle.** Vehicles used primarily for recreational purpose, including but not limited to camper trailers, pop-up campers, boats, snowmobiles, motorcycles, dune buggies, and trailers used to transport them, and similar vehicles.

Section 2.05 Definitions – S through Z.

- (a) **Site Condominium.** A land development project which is owned in the condominium form of land ownership, under the Michigan Condominium Act. A site condominium unit is a dwelling unit established under the condominium act and which consists of an area of vacant land and a volume of surface or subsurface vacant air space, designed for separate ownership and use as described in the master deed for the site condominium project, and within which a building may be constructed by the condominium unit owner. See other condominium-related definitions in Chapter 16 of this Ordinance. Condominium and site condominium are a form of land ownership, not a type of zoning.
- (b) **Short Term Rental.** Short-Term Rental means the rental or subletting of an dwelling unit for a period of less than 28 consecutive days.
- (c) **Story.** That part of a building included between the surface of any floor and the surface of the next floor, or if there is no floor above, then the ceiling next above.
- (d) **Street – Public.** A public, dedicated right-of-way or public dedicated easement which provides the principal means of access to a parcel of parcels of land. A public street may be conveyed or dedicated to the county, the County Road Commission, the Township or other public body having jurisdiction over public streets. A public street may be dedicated by means of a recorded plat or by means of a separate recorded easement or other properly recorded document.
- (e) **Street – Private.** A path, trail, road, driveway or street which provides or is intended to provide the primary means of access to more than one building, dwelling, or parcel of land. A private street may be established by easement, right-of-way agreement or other written instrument, or by prescription or other rights of use. A private street is established or conveyed to a person or persons, a legal entity or other party that is authorized to hold title to land, but it is not conveyed or dedicated to the county, the County Road Commission, the Township or other public agency having jurisdiction over roads.
- (f) **Structure.** Anything constructed or erected in or upon the ground and having a permanent location in or upon the ground, including, though not limited to, buildings, accessory buildings, sheds, gazebos, radio and television towers, decks and platforms.
- (g) **Vehicle Repair or Body Shop.** Any building, premises or lands which are used in whole or in part for the servicing, repair, maintenance or painting of motor vehicles or parts thereof or accessories thereto.

- (h) **Vehicle Service Stations.** Buildings and premises where the principal use is supplying and dispensing at retail of motor fuels, lubricants, batteries, tires, or other motor vehicle accessories.
- (i) **Yards.** The open spaces on the same lot located between a building and a lot line, as defined herein. The term “required yard” shall refer to that portion of the yard lying within the minimum required setback.
 - (1) **Front Yard.** The space extending the full width of the lot, the depth of which is the furthest horizontal distance between the front lot line, as defined in Section 2.03(p), and front building line of the principal building. In the case of a lot having frontage on a body of water, the front yard shall consist of that part of the lot located between the shoreline of the body of water and the nearest building line of the principal building.
 - (2) **Rear Yard.** The space extending the full width of the lot, the depth of which is the furthest horizontal distance between the rear lot line and the nearest building line of the principal building. In the case of a corner lot, the rear yard may be opposite either street frontage.
 - (3) **Side Yard.** The space between a main building and the side lot line, extending from the front yard to the rear yard, the width of which is the furthest horizontal distance from the side lot line to the nearest building line of the principal building.

CHAPTER 3

ZONING DISTRICTS AND ZONING MAP

Section 3.01 Zoning Districts. For purposes of this zoning ordinance, the Township of Spencer is hereby divided into the following zoning districts:

| | |
|------|---|
| AG | Agricultural District |
| R-R | Rural Residential District |
| R-1 | Single Family Residential District |
| LR | Lake Residential District |
| R-2 | Two Family and Multiple Family Residential District |
| R-3 | Manufactured Housing Community District |
| RPUD | Residential Planned Unit Development District |
| C-1 | Neighborhood Commercial District |
| C-2 | General Commercial District |
| I | Industrial District |

Section 3.02 Zoning Map. The locations and boundaries of the zoning districts are hereby established as shown on a map, as amended from time to time, entitled “Zoning Map of the Township of Spencer, Kent County, Michigan,” which is hereby made a part of this Ordinance. When amendments are made in the zoning map, they shall be accomplished by means of an amendment in this section of the zoning ordinance. Where uncertainty exists as to the boundaries of any zoning district as shown on the zoning map, the following rules of construction and interpretation shall apply:

- (a) Boundaries indicated as approximately following the centerlines of streets, highways, or alleys shall be construed to follow such centerlines.
- (b) Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines.
- (c) Boundaries indicated as approximately following Township boundaries shall be construed as following Township boundaries.
- (d) Boundaries indicated as approximately following the centerline of creeks, streams or rivers shall be construed as following such creeks, streams or rivers, or in the event of change in the location of creeks, streams or rivers, shall be construed as moving with the creek, stream or river.
- (e) Boundaries indicated as approximately following property lines, section lines or other lines of government survey shall be construed as following such property lines, sections lines or other lines of government survey as they exist as of the effective date of this Ordinance or applicable amendment thereto.

Section 3.03 Lands not Included Within a District. In any case where, for whatever reason, lands have not been included within a zoning district on the zoning map, such lands shall be deemed to be included in the AG Agricultural District.

Section 3.04 Official Zoning Map. The official zoning map of the Township shall be maintained in the Township offices. Whenever an amendment in the zoning map is duly adopted by Township ordinance, such amendment shall be shown on the zoning map, following the effective date of any such amendment.

CHAPTER 4

GENERAL PROVISIONS

Section 4.01 Scope. These general provisions shall apply to all zoning districts unless stated otherwise. The provisions of this Ordinance shall be held to be the minimum requirements for the promotion of public health, safety and general welfare in the Township.

Section 4.02 Effect of Zoning. Zoning applies to every building, structure or use. No building, structure or land shall be used or occupied, and no building or structure or part thereof shall be erected, moved, placed, reconstructed, extended, enlarged or altered, except in conformity with this Ordinance.

Section 4.03 Effect of Other Regulations. The regulations of this Ordinance shall be in addition to any other regulations in effect in the Township. All building, subdividing and uses within any district shall satisfy all building, planning, platting, zoning and other applicable regulations.

Section 4.04 Restoration of Unsafe Buildings. Subject to the provisions of the nonconforming uses chapter, nothing in this Ordinance shall prevent the strengthening or restoring to a safe condition of any part of any building or structure which is unsafe.

Section 4.05 Required Area or Space. A lot or lots in common ownership or a yard, court, parking area or other space shall not be divided, altered or reduced so as to make it not in conformance with the minimum requirements of this Ordinance. If already less than the minimum requirements of this Ordinance, a lot or lots in common ownership or a yard, court, parking area or other space shall not be divided, altered or reduced so as to increase its noncompliance with such minimum requirements.

Section 4.06 Existing Lots of Record.

- (a) A lot which is platted, or a lot or other parcel of land which is otherwise lawfully of record as of the effective date of this Ordinance, may be used as stated in the district in which the lot or parcel is located, provided that the lot or parcel complies with all requirements of the County Health Department with regard to on-site sanitary sewage disposal. The principal building on such lot or parcel shall, however, be located such that the side, front and rear yard setbacks on the lot or parcel are at least 80 percent as wide as the side yard requirements of this Ordinance for the district in which the lot or parcel is located.
- (b) If two or more lots of record or a combination of lots and portions of lots of record, in existence at the time of adoption of this Ordinance are held in common ownership and individually do not comply with the minimum lot width or minimum lot area requirements of the district in which they are located, the lands involved shall be considered to be a single, undivided parcel for the purposes of this Ordinance. Such parcels shall be combined into a lot or parcel complying with the minimum lot width and minimum lot area requirements of this

Ordinance. No portion of such parcel shall be used or divided in a manner which diminishes compliance with the minimum lot width and minimum lot area requirements of this Ordinance.

Section 4.07 Unlawful Buildings and Uses. Any building, use or lot which has been unlawfully constructed, occupied or created prior to the date of adoption of this Ordinance shall continue to be unlawful, unless expressly permitted by this Ordinance. Such unlawful buildings, uses or lots shall not be considered to be nonconforming buildings, uses or lots under the terms of this Ordinance.

Section 4.08 Height Exceptions. The maximum height requirements of buildings and structures may be exceeded by parapet walls, chimneys, stacks, monuments, cupolas, mechanical appurtenances, television and radio antennas attached to buildings, fire towers, grain elevators and elevated water towers. Such maximum height requirement may also be exceeded by farm silos and other buildings and structures used in farm operations except to the extent that the height of agricultural buildings and structures is limited by the terms of other provisions in this Ordinance.

Section 4.09 Required Yards or Lots.

- (a) All lots, yards, parking areas or other spaces created after the effective date of this Ordinance, or any relevant amendment thereof, shall comply with the minimum requirements of the zoning district in which they are located.
- (b) Computations for minimum lot area and minimum lot width shall not include lands located within any public street right-of-way or within any private street right-of-way, nor shall they include any land comprising an easement granted for the purpose of providing access to other lands.
- (c) Required front yard setback shall be measured from the nearest street right-of-way line. Other required yard setbacks shall be measured from the lot lines, except for lots which derive access from a private street, or which have an easement for a private street on the property, in which case the setbacks shall be measured from the easement line.
- (d) Required lot width shall be maintained at the front building setback line.

Section 4.10 Principal Use or Principal Building. In all districts not more than one principal use or main building shall be placed on a lot, except for groups of related commercial or industrial buildings or multiple family dwellings, contained within a single, unified complex or grouping, that shares parking, access and other site features.

Section 4.11 Minimum Lot Frontage. Except as provided for cul-de-sac lots, all lots and parcels shall have frontage on a public street or on a private street equal to the minimum lot width required by this ordinance for the zoned district in which the lot is located.

Section 4.12 Double Frontage Lots. Buildings on lots having frontage on two intersecting or non-intersecting streets shall comply with the front yard requirements on both such streets.

Section 4.13 Cul-de-sac Lots. In the case of lots abutting cul-de-sac streets, the minimum required lot width shall be measured at the minimum required front setback distance for buildings and structures. Such cul-de-sac lots shall have a minimum lot width of 70 feet at the front lot line. A lot shall be considered to be a cul-de-sac lot if the lot has more than one-half of its required frontage on the cul-de-sac. The cul-de-sac shall be deemed to commence at the intersection of the radius of the cul-de-sac with the street right-of-way line.

Section 4.14 Essential Services. The erection, construction, alteration or maintenance by public utilities or governmental units of overhead or underground gas, electrical, communication, steam, water, sanitary sewer or storm sewer, distribution, transmission or collection systems and other similar equipment and structures in connection therewith, and which are reasonably necessary for the furnishing of adequate service, are permitted in any zoning district. The erection and use of buildings for such purposes shall take place only if approved by the Planning Commission as a special land use.

Section 4.15 Accessory Uses. In any zoning district, accessory uses, incidental to a permitted use or other approved use, shall be permitted when located on the same lot or parcel of land; provided that such accessory uses shall not involve the conduct of any business, trade or industry in a zone not permitting such activity.

Section 4.16 Accessory Buildings.

- (a) In any district, except as noted elsewhere, an accessory building may be erected detached from the permitted use building, or it may be erected as an integral part of the permitted use building. Accessory buildings or garages shall be considered as an integral part of the permitted use building when the distance between structures is solidly covered by a breezeway, portico, covered colonnade, or similar architectural device.
- (b) When erected as an integral part of the permitted use building, an accessory building shall comply in all respects with the requirements of this Ordinance applicable to the permitted use building.
- (c) No accessory building shall be constructed or occupied on a lot before the principal building or use on the lot is constructed or occupied, unless a permit for the principal building is applied for and received, and unless construction commences on the principal building and progresses diligently toward completion, all within one year after a permit for the accessory building is issued; but in the absence of a permit for and construction of the principal building within one year, the accessory building shall then be unlawful and shall be removed. Any accessory building in such circumstances that is not so removed shall be a violation of this Ordinance.
- (d) No accessory building shall be used for residential purposes or living quarters.

- (e) Accessory buildings shall comply with the following setback requirements:
 - (1) Except as stated in subsection (2) of this subsection (e), no accessory building shall be located in front of the principal building, unless the accessory building is located at least 100 feet back from the front lot line, if platted land, or at least 100 feet back from the street right-of-way line, if unplatted land.
 - (2) On farms in the AG Agricultural District, farm accessory buildings may be located in front of the principal dwelling or principal farm building.
 - (3) Accessory buildings may be located in the side yard, but they shall not be located closer to the front lot line or the front street right-of-way line than the front wall of the principal building; provided, however, that this provision shall not apply to the LR District, nor to farm accessory buildings located on farms in the AG Agricultural District.
 - (4) In the LR District an accessory building or structure may be located between a dwelling and the nearest shore of a lake on which the property fronts, but the accessory building or structure shall be located at least 100 feet back from the ordinary high water mark of the lake.
 - (5) Accessory buildings shall not be located closer than five feet from any side lot line nor closer than ten feet from the rear lot line.
- (f) Detached accessory buildings shall not occupy more than 30 percent of any required rear yard space.
- (g) A deck shall be deemed an accessory building if it is detached from the principal dwelling or other principal building. In the LR District, a deck may be located between the dwelling and the ordinary high water mark of the lake upon which the dwelling fronts, but such deck may not be located closer than ten feet to the shall be defined as a flat structure made of wood or other durable material located on the ground or other foundation and used for the purposes of a patio or other space, which persons may occupy for leisure or other residentially-related purposes. A deck shall not include a building, either in whole or in part, irrespective of whether the building is attached to the deck.
- (h) In all districts except the L-R District, the maximum height of accessory buildings shall be 26 feet, as measured from the ground to the peak of the roofline. This provision shall not apply to farm buildings or farm accessory buildings on farms in the AG Agricultural District.
- (i) In the LR District, the maximum height of accessory buildings shall be 16 feet, as measured from the ground to the peak of the roof line.
- (j) No mobile home, trailer, vehicle, tank, junk, object or salvage material or similar item shall be utilized as an accessory building or storage structure. This

requirement shall not apply to agricultural storage or other agricultural activities on bona fide farms, nor shall it apply to temporary tool sheds or similar temporary storage structures used during the construction of buildings or other structures on the land where such temporary tool sheds or other temporary storage structures are located, and so long as the period of construction does not exceed one year.

Section 4.17 Control of Heat, Glare, Fumes, Dust, Noise, Vibration and Odors. Every use shall be so conducted and operated that it does not result in serious adverse effects by reason of heat, glare, fumes, odors, dust, noise, vibration or the presence of large quantities of insects, rodents and vermin beyond the lands on which the use is located.

Section 4.18 Moving of Buildings. The moving of a building to a new location shall be considered as the erection of a new building, and all provisions and requirements relating to the erection of a new building shall apply.

Section 4.19 Temporary Use Permits. The Building Inspector may issue temporary use permits for up to 120 days (and also for one additional period of 120 days under the renewal provisions of this subsection) for a temporary dwelling only, when such temporary dwelling is necessary because of the destruction of an existing building by fire, adverse weather conditions or other casualty loss. Such temporary use permits shall be available only during the time any such damaged or destroyed dwelling is being repaired, rebuilt or restored. If the above-stated periods totaling 240 days for such temporary use permit would be exceeded because of the period of time required to rebuild or restore the destroyed dwelling, then the Planning Commission may consider the granting of a special land use for an additional period of time, upon public notice and public hearing as otherwise required for special land uses. In the placement, construction and use of any such temporary dwelling, all applicable building code provisions shall be complied with.

Section 4.20 Swimming Pools.

- (a) Pools used for swimming or bathing shall be in conformity with the requirements of this section; provided, however, these regulations shall not be applicable to any such pool less than 24 inches deep.
- (b) Pools shall meet all setback requirements. No pool shall be located under any electrical wiring or in a front yard.
- (c) Each pool shall be entirely enclosed by a fence or wall with a height of at least four feet above the ground. In the case of an above-ground pool, the fence shall fully enclose the stairs or other means of access to the pool. All gates and fences enclosing pools shall be self-latching.
- (d) All swimming pool installations shall comply with the State Construction Code and all standard codes referred to therein.
- (e) Pools may not occupy more than 40 percent of the yard area.

- (f) If an entire property is fenced by a fence or wall at least four feet high, fully enclosing the entire property, then it shall not be necessary to otherwise enclose a pool located on the property.

Section 4.21 Outdoor Storage and Waste Disposal.

- (a) All outdoor storage facilities shall be enclosed by a fence or wall adequate to conceal such facilities from adjacent property.
- (b) All materials or wastes which might cause fumes, odors or dust which constitute a fire hazard or which may be edible by rodents or insects shall be stored outdoors only in closed containers and screened from the street or adjacent property.
- (c) No materials or wastes shall be deposited on any premises in such form or manner that they may be moved off the premises by natural causes or forces.
- (d) Waste materials shall not be allowed to accumulate on the premises in such manner as to be unsightly, constitute a fire hazard, or contribute to unsanitary conditions.

Section 4.22 Clear Vision Corners. On any corner, nothing shall be erected, placed, planted, or allowed to grow in such a manner as to materially impede vision between a height of 30 inches and eight feet above the established abutting road grade within a triangle formed by the two street right-of-way lines and a line connecting them to points 25 feet from the intersection of the right-of-way lines.

Section 4.23 Fences.

- (a) No fence shall be located in front of the front wall of the dwelling or in front of the front wall of any other principal building, except that this provision shall not apply to farms in the AG Agricultural District.

For purposes of this subsection, fences shall not include: decorative split rail fences less than four feet high or other decorative fences less than four feet high, if such fences are non-enclosing and if they are substantially non-solid fences that permit substantial view through the fence; provided, however, that a decorative fence shall not include a cyclone fence, woven-wire fence or other type of wire fence.

For purposes of this subsection, a fence located in front of the front wall of the principal dwelling or in front of the front wall of some other principal building shall also include a fence which is located in a side yard and forward of the front line of the dwelling or other principal building. This subsection shall not apply to certain wire fences in the C-2 and I-1 Districts, as stated in subsection (c).

- (b) Fences and non-retaining walls may be located in a side yard or a rear yard, but such fences and walls shall not exceed six feet in height, and on lakefront lots in the LR District, they shall not exceed four feet in height. For purposes of this

subsection, walls shall include earthen walls, as well as those of wood, stone, brick or other material. The height of certain wire fences in the C-2 and I-1 Districts may be as stated in subsection (c).

- (c) A well-maintained wire protective fence shall be permitted in the front, side and rear yard in the C-2 and I-1 Districts, but such fence shall not exceed eight feet in height; a fence in the side or rear yard shall not exceed six feet in height if adjacent to a residential district.
- (d) Special purpose fences, such as tennis court fences and baseball diamond backstops may be permitted if approved by the Planning Commission as a special land use. Such special purpose fences shall not be installed on boundary lines.
- (e) Fences enclosing swimming pools shall be an exception from the provisions of this section, but shall be regulated by the terms of Section 4.20.
- (f) Fences shall not be erected within any public right-of-way.
- (g) Fences shall not be erected or maintained in such a way as to obstruct the clear vision of vehicle drivers at intersections.
- (h) Fences located in a side yard shall not extend beyond the front line of the dwellings or the front line of other principal building, except as permitted in subsection (a) of this section.
- (i) Fences shall at all times be maintained in good condition and repair.

Section 4.24 Road Access. Any lot of record created after the effective date of this section shall front upon a public street or a private street complying with the requirements of Section 4.11 and Section 4.25. The length of the frontage of such lot on a public or private street shall be at least as great as the minimum lot width required by this ordinance for the zoned district in which the lot is located.

Section 4.25 Private Streets; Driveways.

- (a) The Township has determined that as parcels of land are divided, sold, transferred and developed, all new lots should be served by public streets, wherever possible. The Township acknowledges that there may be instances in which a public street system cannot be constructed, because of the shape of the property, its location or natural features, or where the construction of a public street according to public street standards would result in a negative impact upon significant natural features that, in the judgment of the Planning Commission, outweighs the benefits of construction of a public street. The Township also recognizes there are pre-existing private streets in the Township which, of necessity, will continue to be used. The Township has determined it is in the public interest to regulate the design, construction, improvement, maintenance, extension, relocation and use of new and existing private streets, so as to ensure the following:

- (1) That private streets are designed with adequate width, surface and grade so as to assure safe passage and maneuverability of private and emergency vehicles.
 - (2) That private streets are constructed of suitable materials so as to ensure minimal maintenance and safe passage of vehicles.
 - (3) That private streets will be constructed so as to protect against or minimize soil erosion and to prevent damage to the lakes, streams, wetlands and other significant natural features of the Township.
 - (4) That streets providing access to more than eight lots, parcels, dwellings, units, buildings, or any combination thereof within the Township be public roads, dedicated to the County and built to the standards of the County Road Commission. The design must be inspected and approved by the Kent County Road Commission (KCRC), and all costs paid by the owner or developer.
- (b) For the purposes of this section, and where applicable, elsewhere in this Ordinance, driveways and private streets shall be defined as follows:
- (1) Driveway means an undedicated, privately controlled and maintained easement, right-of-way or other interest in land that provides means of access to not more than one lot or parcel of land. Driveways are not subject to the private street requirements of this section.
 - (2) An existing private street is a private street which is used to provide access to existing buildings, existing dwellings or existing parcels of land, as of the effective date of this Ordinance.
 - (3) A private street is a non-public street that provides the means of access to more than one lot or parcel of land, principal building, principal dwelling or principal structure.
- (c) All private streets shall be designed and constructed in accordance with the following minimum design, construction, inspection, approval and maintenance requirements:
- (1) The private street right-of-way shall be at least 66 feet in width.
 - (2) The area in which the private street is located shall have a minimum cleared width of 26 feet.
 - (3) The road bed of the private street shall be a minimum of 22 feet wide.
 - (4) Private streets serving two to four buildings, dwellings or parcels of land shall have a minimum subbase of 12 inches of sand and six inches of finished, compacted gravel (No. 22A), and shall otherwise comply with

Kent County Road Commission construction requirements for unpaved, local roads.

- (5) Private streets serving four to eight buildings, dwellings or parcels of land shall be paved in accordance with subsection (c)(6) of this section.
- (6) Paved private streets shall be constructed as follows: there shall be a minimum subbase of 12 inches of sand and six inches of finished, compacted gravel (No. 22A), and a minimum of three inches of bituminous aggregate. Such paved private streets shall comply with other applicable Kent County Road Commission construction requirements for local roads.
- (7) Any private street which terminates at a dead end shall have a cul-de-sac with minimum turn-around radius of 40 feet of traveled street surface.
- (8) No private street shall extend for a distance of more than 1,320 in length from the nearest public street right-of-way as measured along the centerline of the private street, unless direct access is provided thereto from another public street; provided, however, that the Planning Commission may in its discretion approve a private street extending for a greater length from the nearest public street right-of-way, if the Planning Commission makes any one of the following findings of fact:
 - a. That there are extraordinary circumstances or unusual hardship pertaining to the use and development of the land, such that a greater length of private street is reasonably necessary;
 - b. That another direct access to and from another public street cannot reasonably be provided; or
 - c. That unless a greater length of private street is permitted, there will be land that cannot be used or developed and that there is no reasonable likelihood of such use or development unless the greater length of private street is approved.
- (9) The private street surface shall have a minimum crown of 2/10 of one foot from the centerline of the street to the outside edge thereof.
- (10) A street shoulder shall be provided on each side of the private street surface with a minimum width of two feet for each shoulder, and with a slope of 22/100 foot from the outside edge of the street surface to the toe of the slope, except where concrete curbing or valley gutters are provided.
- (11) The maximum longitudinal street grade shall not exceed 6 percent, provided the Township may allow up to a 8 percent grade provided the Township is satisfied that such increase in street grade will not adversely public safety or cause undue erosion.

- (12) A private street shall be constructed so as to sufficiently control storm water runoff, by means of seepage basins, culverts and drainage contours and/or by such other effective methods as may be required by the Township so as to ensure adequate drainage and control of storm water runoff.
- (13) The method and construction technique to be used in the crossing of any natural stream, wetland or drainage course, by a private street, shall satisfy the requirements of the Township engineer and/or any governmental agency having jurisdiction.
- (d) All parcels utilizing a private street shall have at least 100 feet of frontage on the private street.
- (e) A private street shall not provide access to more than eight lots, parcels, principal buildings, dwelling units, structures or any combination thereof. All private streets shall have direct access to a public street.
- (f) All private streets shall have a recorded permanent right-of-way or easement. The right-of-way or easement shall expressly permit public or private utilities to be installed within the right-of-way.
- (g) The layout of the private street and the intersections of the private street with either a public or private street shall be such that clear vision, safe turning and travel in all directions at the posted speed limit is reasonably assured. The minimum distance between intersections of public and/or private street rights-of-way shall not be less than 150 feet, as measured along the right-of-way lines thereof.
- (h) All private streets shall be named and identified by use of appropriately located street name signs. Street names shall not duplicate any existing street name in the county, except in the case of the continuation of an existing street. All lots fronting on a private street shall have an address on the private street. A stop sign conforming to the requirements of the County Road Commission shall be provided at the exit point from the private street to the public street, if required by the County Road Commission.
- (i) All private streets, whether new or existing, shall at all times be improved, maintained, repaired and snowplowed so as to insure that the private street is safe for travel at all times and so that suitable access is provided for emergency vehicles, in addition to meeting the specific standards stated in this section. All persons who own property which abuts a private street are jointly and severally responsible for compliance with this requirement.
- (j) **Procedures for Approval of a Private Street.**
 - (1) An application for a private street shall be subject to the approval of the Planning Commission. The Commission shall consider such application at

a public meeting. If the private street is included in a proposed planned unit development, special land use, site condominium or other land development requiring Planning Commission consideration, then the Commission may consider approval of the private street as a part of the proceedings for the development.

- (2) The Planning Commission shall review the application for the private street, and shall make the following findings, in its discretion:
 - a. That the private street complies with all requirements of this section and other applicable provisions of this Ordinance.
 - b. That the private street would not create conditions which may be detrimental to the health, safety or welfare of persons or property, through their creation of hazardous or potentially hazardous situations.
- (3) In approving an application for private street, the Planning Commission may require that the applicant comply with reasonable terms and conditions relating to the placement, design, construction and use of the private street, consistent with the terms of this section and other applicable provisions of this Ordinance.
- (4) Following review and approval of a proposed private street by the Planning Commission, the Township Building Inspector shall determine whether to issue a construction permit for the private street.
 - a. No private street shall be constructed until the construction permit has been issued.
 - b. In determining whether to issue a construction permit, the Building Inspector shall consider the approval of the private street by the Planning Commission and, further, whether the private street can be constructed safely and without serious adverse effects upon adjacent or nearby lands or property interests.
 - c. In issuing a private street construction permit, the Building Inspector may impose such conditions as will assure compliance with the terms of this section.
- (5) **Certificate of Compliance.**
 - a. Upon completion of construction of a private street, the Building Inspector or his or her designee shall inspect the completed construction to determine whether it complies with the approved plans and specifications for the street, the approval given therefor by the Planning Commission, and the terms of this section and other applicable provisions of this Ordinance.

- b. The applicant shall provide the Township with a set of “as built” drawings, bearing a certificate and statement from a registered engineer certifying that the private street has been completed in accordance with the requirements of this section and other provisions of this Ordinance and with the terms of approvals given by the Planning Commission and Building Inspector.
- c. After receiving the certified as built drawings and written approval of the private street by the Building Inspector, following the inspector’s review of the completed construction, the Building Inspector shall issue and submit to the applicant a certificate of compliance, stating that based upon the inspection of the construction, the private street complies with this section, other applicable provisions of this Ordinance and the Planning Commission and Building Inspector approvals.
- d. If the completed private street does not satisfy the requirements of this section, other applicable provisions of this Ordinance or approvals given by the Planning Commission and Building Inspector, the applicant shall be notified in writing of such noncompliance and shall be given a reasonable period of time in which to correct the stated deficiencies.

(6) Building Permits.

- a. No building permits or other permits shall be issued for any dwelling, or other building, structure or use, the primary access to which is to be provided by a private street, until the private street has been approved in accordance with this section and other applicable provisions of this Ordinance, and until a private street construction permit and a certificate of compliance have been issued, except as stated in subparagraph (ii) of this paragraph (6).
- b. If a private street has not yet been completed and approved in accordance with this section and other applicable provisions of this Ordinance, but the applicant has submitted to the Township a performance bond, with acceptable surety, or a letter of credit, conditioned upon the timely and full completion of the private street in accordance with this section, then a building permit may nevertheless be issued for a dwelling or for other building, structure or use, the primary access to which is to be provided by the private street; provided, however, that no such permit shall be issued unless the Building Inspector also determines that persons and vehicles may traverse the incomplete private street in sufficient safety. In such a case, the further construction of the private street shall be pursued diligently to completion.

- (7) An occupancy permit for a dwelling or other building, the primary access to which is to be provided by a private street, shall not be issued until the private street has been laid out and constructed with sufficient width, surface and grade so as to assure the safe passage and maneuverability of fire, police, ambulance and other emergency service vehicles.
 - (8) Except as to the maximum number of lots, parcels, dwellings, units or buildings served by a private street, if the private street is proposed as part of a planned unit development or a special land use, the provisions of this section may be modified by the Planning Commission and Township Board (where Township Board approval is otherwise required), in the approval of the planned unit development or special land use, upon a determination that the requirements of the planned unit development or special land use and the requirements of this section would nevertheless be sufficiently accommodated. An increase in the number of lots, parcels, dwellings, units or buildings served by a private road may only be granted by the Zoning Board of Appeals upon a finding that a variance to increase the maximum number served meets the requirements of Chapter 21.06.
 - (9) As a condition of approval of a private street and the issuance of a construction permit therefor, the Township may require that the applicant provide a performance bond, with an acceptable surety, or a letter of credit, conditioned upon the timely and faithful performance by the applicant under the terms of this section and under the terms of any approvals given for the private street by the Planning Commission and Building Inspector.
- (k) The provisions of this section shall apply to existing private streets to the extent stated in this subsection.
- (1) Notwithstanding the provisions of this section, a building or structure may be erected upon a lot or parcel abutting a private street constructed adjacent to that property before the effective date of this section if:
 - a. The lot or parcel was platted or otherwise of legal record as an individual lot or parcel as of the effective date of this section; and
 - b. The private street has a cleared area of at least 16 feet, is graded to be passable by emergency vehicles and has sufficient gravel or other surface so as to be passable by all vehicles on a year-round basis.
 - (2) Notwithstanding the other provisions of this section, if a building or structure is proposed to be erected upon a lot that was not platted or otherwise of legal record as an individual lot or parcel as of the effective date of this section, and if the private street abutting the lot or parcel was constructed before the effective date of this section, then the building or

structure may be erected if that part of the private street which from its intersection with the public right-of-way, and extending across or adjacent to the lot or parcel on which the building or structure is to be constructed, is brought into compliance with the requirements of this section, with the following exceptions:

- a. The required minimum right-of-way width may be reduced to 16 feet in width, or to such greater width as shall produce the maximum possible compliance with the required minimum right-of-way width under the terms of this section. The private street shall be graded so as to be passable by emergency vehicles and it shall have sufficient gravel or other surface so as to be passable by all vehicles on a year-round basis.
- b. The requirement for a street maintenance agreement shall be waived if and to the extent that the owners of other properties abutting the private street refuse to agree upon street maintenance. In that case, there shall be recorded against the property a binding covenant that the owner of the property shall ensure that the private street shall be maintained, repaired and snowplowed so that it will be safe for travel at all times and that it will provide sufficient access for emergency vehicles. Such covenant shall not relieve other parties who utilize the street from their responsibilities to maintain, improve, repair and snowplow the street.

(3) No private street which does not meet the requirements of this section shall be extended in length, unless the entire length of the private street, both the existing portion, and the new, extended portion, is brought into compliance with the provisions of this section, with the following exceptions:

- a. The required minimum right-of-way width for the existing portion of the private street may be reduced to 16 feet, or to such greater width as shall produce the maximum possible compliance with the required minimum right-of-way width under the terms of this section. The private street shall be graded so as to be passable by emergency vehicles and it shall have sufficient gravel or other surface so as to be passable by all vehicles on a year-round basis.
- b. The requirement for a street maintenance agreement shall be waived if and to the extent that the owners of other properties abutting the street refuse to agree upon street maintenance. In that case, there shall be recorded against the property a binding covenant that the owner of the property shall ensure that the private street shall be maintained, repaired and snowplowed so that it will be safe for travel at all times and that it will provide

sufficient access for emergency vehicles. Such covenant shall not relieve other parties who utilize the street from their responsibilities to maintain, improve, repair and snowplow the street.

- c. At the end of the private street a cul-de-sac shall be provided, with a minimum turn-around radius of 40 feet of traveled street surface.

Section 4.26 Natural Buffer Strip Required. A buffer or green belt of natural vegetation measuring 25 feet in width shall be maintained along the bank or border of every natural stream or natural creek. Clear cutting of trees, shrubs and weeds in the buffer area shall be prohibited, except if found to be dead, diseased, unsafe, fallen or noxious. This does not apply to minor pruning of trees and shrubs. This section shall not apply to governmentally-established drains.

Section 4.27 Access to Lakes and Streams.

- (a) **Definitions.** For purposes of this section:

- (1) “Access property” means a property, parcel of land or lot abutting a lake, stream or other body of water, either natural or artificial, and used or intended to be used for the providing of access to a lake, stream or other body of water by pedestrian or vehicular traffic to and from off-shore, non-frontage land, regardless of whether access to such body of water is gained by easement; fee or undivided interest ownership of land by one or more owners; lease; license; condominium or site condominium rights or interests; gift; business or personal invitation; or any other form of conveyance, dedication, approval or consent, whether in writing or oral.
- (2) “Dwelling unit” means a dwelling structure designed for use by one family or other occupancy, whether for seasonal, all-season, temporary or other use, and it shall include, but not be limited to single family dwellings, mobile homes, recreational units, hotels and motels, apartments, condominium units, cooperative units, attached residential unit or other residence unit, however located. Each separate dwelling unit within a multiple family dwelling structure shall be a separate dwelling unit for purposes of this section.

- (b) Except as stated in this subsection, no land shall be used or provided for use as access property from off-shore, non-water-frontage lands to or for a lake, stream or other body of water, either natural or artificial, unless there shall be provided access property that has (1) a water frontage of at least 125 feet as measured along the water’s edge of the normal high water mark of the lake or stream for each dwelling unit using such access property; and (2) a minimum area of access property of at least 9,500 square feet for each dwelling unit using the access property, or any part thereof.

- (1) The minimum depth back from the ordinary high water mark, for an access property, shall be 100 feet.
- (2) Water frontage of an access property shall not include a swamp, wetland, marsh or bog. No swamp, wetland, marsh or bog shall be altered by dredging, the addition of earth or fill material or by the drainage of water for the purpose of altering or increasing the length of water frontage required by this section, or for the purpose of otherwise attempting to comply with this section.
- (3) Except as stated in this subsection, an access property shall not abut an artificially made canal or channel.
 - a. No canal or channel shall be constructed, dredged or excavated for the purpose of altering or increasing the length of water frontage required by this section, or for the purpose of otherwise attempting compliance with this section.
 - b. In their approval of a Planned Unit Development (PUD) under Chapter 11, the Planning Commission and Township Board may approve an access property within the PUD that abuts an existing artificially-made canal or channel, and in that event, the frontage of such canal or channel may be used in the calculation of the minimum required water frontage of the access property; provided, however, that such approval of an access property abutting an artificially-made canal or channel shall be permitted only in and with respect to a PUD that has no more than eight dwelling units and that has at least 125 feet of frontage as measured along the water's edge of the normal high water mark of a lake or stream, excluding any water frontage on an artificially-made canal or channel.
 - c. In their approval of a PUD that has no more than eight dwelling units and that has at least 125 feet of frontage along the water's edge of the normal high water mark of a lake or stream (not counting frontage of an artificially-made canal or channel), the Planning Commission and Township Board may approve an access property that consists, in whole or in part, of a general or limited common element of a site condominium, so long as the permitted uses for such property under the terms of the condominium documents are only for open space, passive recreational uses and minor recreational facilities, such as playgrounds and picnicking areas.
 - d. In their approval of a Planned Unit Development (PUD) under Chapter 11, the Planning Commission and Township Board may approve an access property within the PUD that has a water

frontage of at least 80 feet as measured along the water's edge of the normal high water mark of the lake or stream, for each dwelling unit using such access property; provided, however, that (1) such approval of an access property having water frontage of at least 80 feet for each dwelling unit using the access property shall be permitted only in and with respect to a PUD that has no more than eight dwelling units; (2) such PUD shall have at least 125 feet of frontage as measured along the water's edge of the normal high water mark of a lake or stream, excluding any water frontage on an artificially-made canal or channel; and (3) sanitary sewer service and water supply to all dwelling units in the PUD shall be provided by means of a Township-approved community or public sanitary sewer system and by means of a Township-approved community or public water supply system.

- (4) The provisions of this subsection shall apply to any parcel of land, regardless of whether access to a lake, stream or other body of water shall be gained or provided by easement, fee or other ownership, lease, license, consent, invitation, condominium or site condominium or any other form of conveyance, dedication or consent.
- (c) The provisions of this section shall not apply to existing actual access occurring from non-frontage lands, to lakes, streams and other bodies of water, where such existing access is lawfully occurring at the effective date of this section, from non-frontage lands that are platted or otherwise of record at the effective date of this section.
- (d) **Docks for Existing Access Properties.**
 - (1) The purpose of this subsection (d) is to allow and regulate docking at certain existing access properties. Subsection (c) may allow additional usage if the standards of that subsection are met.
 - (2) This subsection (d) applies to an access property which is located within or contiguous to a plat recorded as of March 1, 2000. The access property must also either: (a) have been dedicated by the plat only to the use of some or all of the lot owners in the plat; or (b) as of March 1, 2000, had been commonly owned in fee simple by at least five different owners within the plat, with spouses treated collectively as one owner. An access property meeting all these qualifications is referred to as a "qualified access property."
 - (3) Docks may be installed on a qualified access property as follows: (a) one dock for an access property with more than 30, but less than 80 feet of water frontage; (b) up to two additional docks, one for each full 80 feet of frontage in excess of the first 80 feet of frontage; and (c) one dock for each 125 feet of frontage in excess of the first 240 feet of frontage.

- (4) Up to three shore stations for one boat each may be installed instead of a permitted dock.
- (5) The calculation of the water frontage for purposes of this subsection (d) will not include any frontage created by artificial alteration of the shoreline or construction of a channel or similar feature.
- (6) The location of docks and shore stations is subject to Section 4.28 of this Ordinance, and other applicable laws, regulations and ordinances, which may limit the number of docks or shore stations based upon the width and other characteristics of the qualified access property.
- (7) Permitted docks and shore stations may be stored on the qualified access property if seasonally removed from the water.
- (8) The qualified access property shall not be improved by a dwelling.
- (9) Only watercraft registered to residents of the associated plat, or owners of a non-platted qualified access property, may be docked or launched from the qualified access property.
- (10) This subsection does not expand or grant private property rights, or change any deed or other private property right restrictions or limitations on the use of the property. The determination of usage of the permitted number of docks or shore stations among common owners is a private matter to be determined among the owners.
- (11) Ownership and use of qualified access properties, as described in this subsection, shall be considered a residential use of property and permitted in the residential districts.

Section 4.28 Docks. Docks and other structures for the mooring of boats and other watercraft shall comply with this section.

- (a) Docks, wharves, boat landings, boat houses and similar structures shall not be located closer than ten feet from a side lot line of the parcel of land where the dock is located.
- (b) Docks, piers and similar structures shall not extend into a lake or other body of water in such a manner or to such extent as may substantially interfere with or present a hazard to navigation. For purposes of this subsection, a serious hazard to navigation shall include docks that extend into a lake or other body of water to a distance that is substantially greater than the prevailing length of other existing docks in the vicinity.
- (c) Floating rafts or platforms shall not be anchored or located in a lake or other body of water so as to impede navigation or present a safety hazard to boats or other watercraft. A floating raft or platform shall be located only directly opposite the

shoreline of the parcel of land owned or used by the person or persons who own or use the floating raft or platform. A floating raft or platform shall not be located opposite any other lands. A floating raft or platform shall have reflectors to assist in its being seen after daylight hours.

- (d) No dock, pier or other structure shall extend into a lake or other body of water in such a manner that any part of it is located in front of the lot frontage of any other lot or any other parcel of land in separate ownership from that of the lot or parcel on which the dock, pier or other such structure is located.

Section 4.29 Antennas and Towers. Freestanding radio, television or microwave antennas or towers are permitted in all zoning districts provided the following provisions are satisfied:

- (a) The antenna shall be permanently secured to a stable foundation.
- (b) No portion of the antenna shall conduct or display any advertising, message or other graphic representation other than the manufacturer's name.
- (c) No freestanding antenna shall exceed a height of 50 feet above grade, or have any dimension exceeding 50 feet, including its mounting structure, except that freestanding antennas or towers exceeding such height or other dimension may be permitted by the Planning Commission as a special land use under Chapter 15.
- (d) An antenna or tower shall be located only in the rear yard or the side yard and shall not be closer to a property line than its height or the depth of the required rear or side yard setback, whichever is the greater.
- (e) An antenna may be mounted on the roof of a principal or accessory building, provided it shall not exceed a height of ten feet, as measured from its foundation.
- (f) All antennas must be grounded to protect against damage from lightning.
- (g) An antenna or tower shall not be so located or constructed as to have a serious adverse effect on adjacent or nearby land uses.
- (h) Antennas and towers for commercial communications services, including cellular telephone antennas and towers, shall be approved only as special land uses under the terms of Chapter 15.
- (i) Where the effect of any of the provisions of this section would be to prevent or preclude the operation of amateur radio antennas (being antennas operating for the purpose of receiving or transmitting communications by a radio station described in Section 153(q) of Title 47 of the U.S. Code) and licensed by the Federal Communications Commission, such amateur radio antenna may be approved by the Planning Commission as a special land use if it is reasonably demonstrated that the application of any of the provisions of this section would be to preclude or prevent the operation of such amateur radio antenna. In granting any such special land use for an amateur radio antenna, the Planning Commission

may impose reasonable conditions upon such approval, but such conditions shall not interfere with the reasonable accommodation of amateur radio communications and such conditions, if any, shall be no more than the minimum practicable regulations necessary to accomplish the Township's legitimate purposes in regulating such amateur radio antennas.

Section 4.30 Wind Energy Conversion Systems. A Wind Energy Conversion System (WECS), includes all necessary substations, accessory buildings and operation and maintenance offices, shall comply with all of the terms and conditions of this section.

- (a) **Definitions.** For the purposes of this section, the following terms and phrases shall be defined as provided below:
 - (1) **Wind Energy Conversion System (WECS).** A wind turbine generator or other device or devices designed to extract energy from the wind and supply it in the form of electrical energy that is suitable for use by the local electrical transmission utility, or that is used to provide electricity on the site or property on which the WECS is located. A WECS shall also include a MET tower, which is a tower containing instrumentation such as anemometers that is used to assess wind resources.
 - (2) **Horizontal Axis Wind Turbine (HAWT).** A WECS designed with a rotor mounted on a horizontal axis of rotation. The rotor thus sweeps through a vertical plane perpendicular to the motion of the wind.
 - (3) **Rotor.** An element of a wind turbine which acts as a multi-bladed airfoil assembly, thereby extracting through rotation, kinetic energy directly from the wind.
 - (4) **Nacelle.** The structure designed to “yaw” (turn) into the wind that is mounted on top of the tower and houses the rotor support shaft, mechanical and electrical components, and generator.
 - (5) **Tower.** The structure, above grade, that supports the nacelle, rotor assembly, and other components.
 - (6) **Tower Foundation.** The tower support structure, below grade, that supports the weight of the WECS tower.
 - (7) **Blade Clearance.** In reference to a horizontal axis rotor, the distance from grade to the lowest point of the rotor's swept arc.
 - (8) **Tower Height.** The height from grade to the highest vertical point of the swept rotor arc. In the case of a WECS with a horizontal axis rotor, the total height includes the distance from grade to the rotor axis of rotation within the nacelle plus one-half the swept rotor diameter.

- (9) **Sub-station.** An electrical construction designed to collect and modify electrical energy produced by the WECS for the purpose of supplying it to the local electrical utility.
- (b) **Application.** A separate application is required for each WECS, although a site plan may include multiple related WECS and related facilities. Applications for each WECS shall include the following:
- (1) A site plan, which, in addition to the site plan requirements of Chapter 17, shall include the following:
 - (i) The proposed location, size, height and type of all WECS, including MET towers, and the setback distance between the proposed towers and the nearest residential units and residentially-zoned properties.
 - (ii) The location of all existing structures and buildings within 300 feet of the parcel subject to the special land use request.
 - (iii) The proposed location of all access roads, underground and overhead cabling and utilities.
 - (iv) The physical size and electrical nameplate capacity of the proposed WECS, including the total height and the swept rotor diameter.
 - (v) Proposed screening, buffering and tower lighting, if required.
 - (vi) A visual representation of the WECS including scale elevations or photographs.
 - (2) A copy of the applicant's proof of ownership or control of the land, including any lease with the landowner(s) for the WECS. Any such lease must include a provision requiring the applicant to remove all equipment and restore the site upon cessation of WECS operations.
 - (3) The manufacturer's specifications indicating:
 - (i) The rated nameplate output, in kilowatts or megawatts, of the wind turbines included in the WECS.
 - (ii) Safety features and sound characteristics.
 - (iii) Type of material used in foundation, tower, blade, and rotor construction.
 - (4) A noise impact study which includes information on the noise levels to be generated by the use, measured in dB(A) at the property line, the tower site or such other location as directed by the Planning Commission.

- (5) Proof that the applicant has obtained or applied for approval from all county, state or federal agencies having jurisdiction over the proposed use, or any aspect thereof.
 - (6) An environmental impact study, shadow flicker study, vibration study, and/or avian and wildlife impact study may be required by the Planning Commission. The applicant shall take appropriate measures to mitigate or eliminate adverse effects identified in such studies, including assurance that shadow flicker shall not have a significant adverse effect upon any adjacent property or any occupied building or residence.
 - (7) A decommissioning plan which includes the anticipated life of the project, the estimated decommissioning costs net of salvage value in current dollars, the method for ensuring that funds will be available for decommissioning and restoration and the anticipated manner in which the project will be decommissioned and the site restored.
- (c) **Requirements.** A WECS, including MET towers, shall comply with the following requirements:
- (1) **Review and Approval Procedures.** A WECS that is 100 feet in height or greater must receive special land use approval from the Planning Commission in compliance with Chapter 15 of this ordinance. A WECS that does not exceed 100 feet in height shall obtain site plan review pursuant to Chapter 17, but shall not require special land use approval if it complies with the requirements of this Section 4.30 and with the following requirements:
 - (i) The diameter of the rotor does not exceed 30 feet.
 - (ii) The wind turbine generator is to provide energy only to the property where the tower is located, not to any other lands.
 - (iii) An individual tower complying with this subsection may, on an intermittent basis, supply excess power to the grid.
 - (iv) If the WECS is installed on a building or structure, the diameter of the rotor shall not be greater than 20 feet and the WECS height shall not exceed 50 feet from grade. The WECS must be safely and permanently secured to the building or structure.
 - (2) **Setbacks.** WECS towers shall comply with the minimum required building setbacks for the district in which the WECS tower is located or a setback equal to one- and one-half times the height of the highest WECS, whichever is greater. Notwithstanding the foregoing, a MET tower shall be set back no closer than a distance equal to the height of the MET tower.

For the purposes of determining whether a proposed WECS or MET tower complies with the setback requirements of a district, the dimensions of the entire lot or parcel of land shall control, even though the WECS may be located on smaller leased parcels within such lot or parcel.

In addition to the foregoing setbacks, WECS towers shall also be set back a minimum of 2,000 feet from an existing dwelling. This subsection shall not prevent a future dwelling from being located closer than 2,000 feet to an existing WECS.

- (3) **Setback Modifications.** Setbacks may be reduced or increased from the minimum setback requirements of this section, in the discretion of the Planning Commission. In considering a reduced setback, the Planning Commission may require a waiver or consent from a neighboring property owner. Pursuant to this provision, the Planning Commission shall consider the technical needs of the applicant for a modification of setbacks, the feasibility of alternate locations, the proximity of existing dwellings, and the potential for adverse impacts that noise, shadows and other features may have on adjacent uses.
- (4) **Noise.** A WECS regulated under the terms of this section shall be designed, located and operated so as to cause no serious adverse effect on other lands or other land uses by reason of noise. A WECS shall not exceed 55 dB(A) at the property line closest to the WECS. Exceptions for neighboring property may be permitted if the written consent of the property owners is provided. The sound pressure level may be exceeded during short-term events such as utility outages or severe wind storms.

Constant velocity turbines shall be required; provided, however, that if variable speed turbines are proposed, the applicant shall submit additional data concerning noise generated when the revolutions per minute of such turbines exceed 24 rpm's, and the Planning Commission may decline to approve any such variable speed turbines.

- (5) **Lighting.** WECS towers shall not be illuminated by artificial means and shall not display strobe lights unless required by the Federal Aviation Administration or other state or federal authority having jurisdiction. The minimum FAA lighting standards shall not be exceeded and all lighting shall be shielded to the extent possible to reduce glare and visibility from the ground. The tower shaft shall not be illuminated unless required by the FAA. Towers that are lighted shall be avoided unless no feasible alternative is available.
- (6) **Shadow Flicker.** Any WECS shall be designed, located and installed so that shadow flicker does not have a significant adverse effect upon adjacent property, upon any occupied building or residence and shall be designed, located and operated so as to cause no serious effect on other

lands or land uses by reason of the impact of its shadow. Significant adverse effect may include a finding by the Planning Commission that there shall be no shadow flicker on an adjacent property. In addition, shadow flicker requirements may be reduced or increased in the discretion of the Planning Commission upon a waiver or consent from neighboring properties or upon a consideration of potential adverse effects on adjacent uses.

- (7) **Rural View, Towers in Front Yard.** Towers shall only be placed, to the extent possible, at locations that do not dominate the view from existing streets or detract from the rural view. Locations on hilltops or in front yards are to be avoided. A tower shall not be located in any front yard unless it is set back to at least 200 feet from the front yard line.
- (8) **Tower Height.** Any WECS, including the foundation, the tower, the rotor and all other components shall have a total height not exceeding 199 feet, as measured from the ground at the base of the tower to the tip of the blade of the rotor, when the blade is in a vertical position; provided, however, the Planning Commission may modify the total height to permit a lighted tower that exceeds 199 feet upon a showing that the tower will be harmonious with adjacent, neighboring land uses and will not have a substantial adverse effect on such adjacent or nearby lands or land uses.
- (9) **Compliance with Law.** All WECS and the construction, installation, operation, maintenance and repair thereof shall comply with all federal, state and local laws, ordinances and regulations, including the Michigan Tall Structures Act and all airport zoning requirements.
- (10) **FAA Standards.** All structures shall comply with applicable standards and regulations of the Federal Aviation Administration and any other state or federal agency having jurisdiction.
- (11) **Building Codes and Maintenance.** All structures constructed shall comply with the standards contained in applicable state and local building codes and shall be regularly maintained in good, safe working order. The applicant shall maintain a maintenance log that the Township can review upon request.
- (12) **Tower Foundation.** All towers shall be permanently secured to a stable foundation.
- (13) **Tower Grounding.** All towers shall be grounded to protect against damage from lightning.
- (14) **Tower Appearance.** All wind turbines and towers shall be finished in a single, non-reflective matte finished color which minimizes the visual impact of the wind farm.

- (15) **Blade Clearance.** The minimum vertical blade tip clearance from grade shall be 20 feet for a wind turbine employing a horizontal axis rotor (HAWT).
 - (16) **Tower Construction.** A freestanding tubular monopole tower shall be required for any tower that is more than 50 feet in height. An anti-climbing device or design shall be used on all towers, regardless of their height.
 - (17) **Tower Graphics.** No portion of any tower or blades shall display any name, symbol, words, letters, advertising message, graphic representation or other written or pictorial matter. Nacelles may have lettering that exhibits the manufacturer's and/or owner's identification.
 - (18) **Power Lines.** All power lines from a WECS and connecting to a sub-station or grid, shall be underground, unless otherwise permitted by the Planning Commission.
 - (19) **Safety.** All electrical and mechanical components of the system shall be securely locked. Spent lubricants and cooling fluids shall be promptly and safely removed from the premises. Signage on the access roads shall warn visitors of the danger of falling ice.
 - (20) **Electromagnetic Interference.** No WECS shall be installed in any location where its proximity with existing fixed broadcast, re-transmission or reception antenna for radio, television or wireless phone or personal communication systems would produce electromagnetic interference with signal transmission or reception unless the applicant provides a replacement signal to the affected parties that will restore reception to the level present before operation of the WECS. No WECS shall be installed in any location within the line of site of an existing microwave communication link where its operation is likely to produce electromagnetic interference in the link operation unless the interference is insignificant.
- (d) **Discretionary Conditions.** The Planning Commission, in its reasonable discretion, may impose other terms and conditions regulating the construction, installation, use, maintenance, repair and removal of any WECS regulated by the terms of this section. Such other terms and conditions may include, though are not limited to, the following:
- (1) The screening or buffering of structures (other than towers) with landscaping, berms, walls or any combination thereof. Fencing may be required by the Planning Commission to secure the site and tower.

- (2) The prohibition on the construction or occupancy of dwellings on the lands where the WECS is located, within the separation distances specified by this section.
- (3) The preservation of existing trees and other existing vegetation not required to be removed for installation of the WECS.
- (4) The reasonable replacement of trees or other vegetation removed or destroyed during the construction or installation of a WECS tower or accessory buildings or structures.
- (5) The providing of a performance bond or letter of credit, in favor of the Township, and conditioned upon the timely and faithful performance of all required conditions of the special land use or site plan approval, including but not limited to the timely and complete removal of a WECS, or any individual tower, wind turbine generator, or other device or equipment regulated under the terms of the section, upon the failure of the same to be removed when required. Such performance bond or letter of credit shall remain in effect during and after the operation of a WECS, until the cessation of operations and the removal of the same.

(e) **Removal.**

- (1) A WECS or other individual device, structure or equipment regulated under the terms of this section shall be removed not later than when the device or equipment is no longer operating or when it has been abandoned. All of the WECS structure and equipment shall be removed, including all underground components and foundations.
- (2) For purposes of this section, a WECS shall be deemed abandoned if it has not produced electrical energy for 12 consecutive months. Operation of the WECS for less than 168 hours during such period shall not be considered production for purposes of this subsection.
- (3) The failure to timely remove a WECS or any device, structure or equipment regulated by the terms of this section shall be a violation of this Ordinance.
- (4) In the event that the owner or operator of a WECS, and/or the owner of the land on which the WECS is located, fails to remove the same after the ceasing of operations or after abandonment thereof, the Township may proceed with all appropriate enforcement and remedial action, including but not limited to the obtaining of funds pursuant to the applicable performance bond or letter of credit, and the use of such funds to accomplish the removal of all non-operating or abandoned towers, wind turbine generators, accessory structures and other devices and equipment regulated hereunder.

- (f) **Inspections.** Upon the provision of reasonable prior notice to the site operator, the Township zoning administrator and/or his or her designated representative may inspect any property for which special land use or site plan approval has been granted pursuant to this section to determine whether the site complies with the applicable requirements of law and the terms of the special land use approval.
- (g) **Prohibited Structures.** The following structures are prohibited as a part of any WECS regulated under the terms of this section:
 - (1) Vertical axis wind turbines, commonly known as a VAWT or Darrieus wind turbine.
 - (2) Wind turbines (HAWTs) with a rotor design consisting of a number of airfoil rotor blades other than three.
 - (3) Wind turbines utilizing a lattice tower structure, unless the WECS does not exceed 50 feet in height.

Section 4.31 Maximum Lot Width-to-Depth Ratio.

- (a) In all zoning districts, a building shall not be constructed or occupied on a lot or parcel if the depth of the lot or parcel exceeds nine times its width.
- (b) The Planning Commission may permit the creation of a lot or parcel to be used for the construction of a building which does not comply with this section, through the granting of a special land use under the terms of Chapter 15 or within a planned unit development. In determining whether to grant such special land use, or to approve such lot or parcel within a planned unit development, the Planning Commission shall find that the greater depth is necessitated by conditions of the land, such as topography, road access, soils, wetlands, or flood plain, and that the creation or use of the lot will not conflict with other Township ordinances, unless appropriate variance or waiver from such other ordinances is obtained.

Section 4.32 Recreational Vehicle Parking.

- (a) The use, parking and storage of recreational vehicles that are located outside of approved or otherwise lawful campgrounds shall be regulated by the terms of this section.
- (b) It shall be unlawful for any person to park or cause to be parked any recreational vehicle on any street, alley, highway or other public place in the Township and to use the same as a dwelling while so located.
- (c) In the R-1 and LR Districts, a recreational vehicle shall not be parked in the front yard, except on a temporary basis, not exceeding seven days, except as provided in subsection (d).

- (d) In the R-1 and LR Districts, no boat, boat trailer, snowmobile, snowmobile trailer, jet ski or other motorized watercraft or utility trailer shall be parked in the front yard, except on a temporary basis, not exceeding seven days.
- (e) No recreational vehicle shall be parked at such location or in such manner as to be a traffic hazard or otherwise to create an unsafe situation by interference with the view of pedestrians or the drivers of vehicles on public or private streets or otherwise within street rights of way.
- (f) **Recreational Vehicles as Dwellings.** No recreational vehicle, unless located in a licensed travel trailer park, shall be used for sleeping or dwelling purposes when parked or stored on private property; provided, however, that recreational vehicles may be used for dwelling and sleeping purposes for up to 14 consecutive days, but not more than a total of 30 days in any calendar year, for a single property.

Section 4.33 Minimum Requirements for Dwellings Outside Manufactured Housing Communities. All dwelling units located outside of manufactured housing communities, also known as mobile home parks, shall comply with the following requirements:

- (a) All dwelling units shall provide a minimum height between the interior floor and ceiling of seven and one-half feet or if a mobile home, it shall meet the requirements of the United States Department of Housing and Urban Development Regulations, entitled Mobile Home Construction and Safety Standards, effective June 15, 1976, as amended.
- (b) The minimum width of any single family dwelling unit shall be 22 feet, measured between the exterior part of the walls having the greatest length. The restoration and further use of a damaged nonconforming dwelling shall be subject to the provisions of Section 20.04.
- (c) All dwellings shall be firmly attached to the foundation so as to be watertight as required by the construction code adopted by the Township or, if a mobile home, shall be anchored to the foundation by an anchor system designed and constructed in compliance with the United States Department of Housing and Urban Development Regulations entitled “*Mobile Home Construction & Safety Standards.*”
- (d) The wheels, pulling mechanism, and tongue of any mobile home shall be removed prior to placement on a foundation.
- (e) All dwellings shall be connected to a sewage disposal system and water supply system approved by the Township and the County Health Department.
- (f) All additions to dwellings shall meet all the requirements of this Ordinance.
- (g) All dwellings shall be aesthetically compatible in design and appearance with other residences in the vicinity. The compatibility of design and appearance shall be determined in the first instance by the Building Inspector upon review of the

plans submitted for a particular dwelling. An appeal by an aggrieved party may be taken to the Zoning Board of Appeals. Any determination of compatibility shall be based upon the standards set forth in this section as well as the character, design and appearance of residential dwellings located outside of mobile home parks within 500 feet of the subject dwelling. The foregoing shall not be construed to prohibit innovative design concepts involving such matters as solar energy, view, unique land contour, or relief from the common or standard designed home.

- (h) Prior to issuance of a building permit for any dwelling unit, construction plans, including a plot plan adequate to illustrate compliance with the requirements of this Ordinance, shall be submitted to the Building Inspector. If the dwelling unit is a mobile home, there shall also be submitted adequate evidence to assure that the dwelling complies with the standards applicable to mobile homes set forth in this section.
- (i) All mobile homes shall meet the standards for mobile home construction contained in the United States Department of Housing and Urban Development Regulations entitled “*Mobile Home Construction & Safety Standards*” effective June 15, 1976, as amended. All other dwellings shall meet the requirements of the construction code adopted by the Township.
- (j) A minimum of 100 square feet of enclosed storage space, excluding closets, shall be provided for each dwelling. Said enclosed storage space may consist of a basement, garage, shed or other structure approved by the Zoning Administrator.

Section 4.34 Projections into Required Setbacks. Certain architectural features, such as cornices, bay windows (or windows without foundations), gutters, chimneys, pilasters, unenclosed porches and similar features may project no further than ten feet into a required front or rear setback, but may not project into a required side setback.

Section 4.35 Health Department Approval.

- (a) No permit shall be issued for the construction of a building or structure which is to have drinking water and/or sanitary facilities located therein and which is to be located on a lot which is not served by both public water and sewer facilities if its water and/or sewage disposal facilities, as the case may be, does not comply with the rules and regulations of the state and county health departments governing waste and sewage disposal.
- (b) No permit shall be issued for the construction of a building with sanitary facilities and not served by public sewer, unless there has been obtained from the County Health Department and submitted to the Township a permit for two separate locations for private drainfield or other private sewage disposal facility on such lot or parcel.

- (c) No building or structure shall be erected, constructed or placed on any designated location for a private drainfield or other private sewage disposal facility.

Section 4.36 Trash, Litter, Junk, and Junked and Inoperable Vehicles and Motor Vehicles.

- (a) No person shall accumulate, place, store, or allow or permit the accumulation, placement or storage of trash, litter or junk on premises in the Township, except in a lawful sanitary landfill, a lawful salvage yard, or not to exceed eight days storage in watertight storage receptacles designed for the temporary accumulation of trash. Waste receptacles shall not be left unattended in the front yard (or on the street side of a lakefront lot) longer than a period of 48 hours, unless they are kept or enclosed in a permanent structure designed to prevent disturbance of such receptacles by animals or severe weather conditions.
- (b) No person shall accumulate, place, store, or allow or permit the accumulation, placement or storage of a junked or inoperable vehicle or motor vehicle on premises in the Township for more than 48 hours, unless such junked or inoperable vehicle or motor vehicle is stored in a completely enclosed building or structure which is otherwise lawful. For the purposes of this section, the terms “vehicle,” “motor vehicle,” “inoperable vehicle or motor vehicle” and “junked vehicle or motor vehicle” have the same meaning as provided in the Township Junk and Inoperable Vehicles Ordinance, Ordinance No. 3-21-1985.

Section 4.37 Home Occupations.

- (a) For purposes of this section, a home occupation is a gainful occupation traditionally or customarily carried on in the home as a use incidental to the use of the home as a dwelling place and conducted entirely within a residential building used as a dwelling, except for storage of articles or materials in an accessory building as permitted under subsection (c)(5) of this section.
- (b) A home occupation may be permitted in the AG, R-R, R-1, LR, R-2, R-3, and PUD Districts in accordance with this section.
- (c) All home occupations shall be subject to the following restrictions and regulations:
 - (1) Home occupations may be conducted only by a person resident in the home, except that not more than one person may be employed who is not a resident of the home.
 - (2) The home occupation may employ only mechanical equipment which is similar in power and type to that used for household purposes and which does not cause radio or television interference.
 - (3) There shall be no exterior alteration in the residential character of the premises in connection with such home occupation and no more than 25

percent of the living area of the dwelling shall be devoted to such home occupation.

- (4) A home occupation shall have no sign other than one stating the name of the occupant and the home occupation. Any such sign shall not be lighted and shall not be more than four square feet in area, nor greater than four feet in height.
 - (5) All articles or materials used in connection with such home occupation shall be stored in the main and any accessory building. No outside storage is permitted.
 - (6) No traffic shall be generated by such home occupation in greater volume than would normally be expected in a residential neighborhood, and for parking generated by the conduct of such home occupation shall be provided off the street and not within the required front yard.
 - (7) In the conducting of any home occupation, there shall be no contamination or pollution of the ground, air or water, nor shall any hazardous materials be used.
 - (8) No commercial vehicles shall be used for a home occupation or parked on the premises of a home occupation.
- (d) **Minor Home Occupations.** The following minor home occupations shall be permitted:
- (1) Dressmaking, sewing and tailoring.
 - (2) Painting, sculpturing and writing.
 - (3) Telephone answering service.
 - (4) Home arts and crafts, including but not limited to rug weaving, quilting, pottery and ceramics, model making, woodworking, lapidary work and jewelry making, but any sales of such arts and crafts shall take place only at other locations.
 - (5) Office of a sales person, sales representative or manufacturers representative, but no transactions shall be made in person on the premises.
 - (6) Musical instrument instruction, except that no instrument may be amplified so as to be audible beyond the parcel of land where the use occurs.
 - (7) Drafting and illustration services.

- (8) Architecture and interior design work.
 - (9) Bookkeeping, accounting and financial planning.
 - (10) Storage and distribution of direct sale products, such as home cleaning products, cosmetics, food containers and the like (but excluding sales on the premises).
 - (11) Consulting services.
 - (12) Private tutoring.
 - (13) Telephone solicitation work.
 - (14) Baby sitting and child day care involving not more than six children.
 - (15) Home cooking and preserving.
 - (16) Computer programming and other computer related work.
 - (17) Secretarial services.
 - (18) Office of minister, priest or other member of the clergy.
 - (19) Watch repair.
 - (20) Private business office in the home, for the reasonable convenience of a person residing in the home, for the conducting of business office work involving files, records, papers, use of computers and other business equipment and for similar business office activity, but not including the sale or rental of goods or products to customers on the premises or the rendering of services to customers or clients on the premises, except on an occasional, irregular basis.
 - (21) The occasional, temporary convenience storage of inventory, supplies and minor equipment used in an occupation, whether or not the occupation is conducted on the premises, where such storage takes place only in the dwelling or in a lawful accessory building, and where the delivery, storage and removal of such inventory, supplies and minor equipment do not have serious adverse effects upon adjacent or nearby lands by reason of excessive traffic, noise, vibration or other adverse impacts.
- (e) **Major Home Occupations.** The following major home occupations shall be permitted:
- (1) Beauty salons and barber shops.
 - (2) Photography studios.

- (3) Furniture upholstery.
 - (4) Small engine repairs.
 - (5) Cabinet making and carpentry work.
 - (6) Television and other appliance repair.
 - (7) Organized classes with not more than six students at one time.
 - (8) Catering business.
 - (9) Garage and yard sales, seasonal outdoor sales, consignment sales and auctions lasting longer than three consecutive days, but not longer than ten days in total (whether or not consecutively) in any 12-month period.
 - (10) Private business office in the home or in a lawful accessory building, for the reasonable convenience of a person residing in the home, for the conducting of business office work involving files, records, papers, use of computers and other business equipment and for similar business office activity, but not including the sale or rental of goods or products to customers on the premises or the rendering of services to customers or clients on the premises, except on an occasional, irregular basis.
 - (11) The occasional, temporary convenience storage of inventory, supplies and minor equipment used in an occupation, whether or not the occupation is conducted on the premises, where such storage takes place only in the dwelling or in a lawful accessory building, and where the delivery, storage and removal of such inventory, supplies and minor equipment do not have serious adverse effects upon adjacent or nearby lands by reason of excessive traffic, noise, vibration or other adverse impacts.
- (f) **Non-Listed, but Similar Home Occupations.** In addition to the above permitted minor home occupations and major home occupations, there shall also be permitted home occupations (whether minor or major) which are similar in nature and effect to those specifically listed in this section.

The determination whether a proposed home occupation is sufficiently similar in nature and effect to a home occupation specifically listed in this section may be made by the Township Zoning Administrator, but in the discretion of the Zoning Administrator, such determination may be made by the Planning Commission at a public meeting.

In determining whether a proposed home occupation is sufficiently similar to one listed in this section, the Zoning Administrator or the Planning Commission, as the case may be, shall consider and make findings upon the following standards:

- (1) Whether the home occupation is incidental and secondary to the use of the premises as a dwelling.
 - (2) Whether the nature of the home occupation is substantially in keeping with the residential use of the property.
 - (3) Whether the likely effects of the home occupation upon adjacent and nearby lands would be within the scope of the effects likely to result from other, similar home occupations that are specifically permitted in this section.
 - (4) Whether the home occupation will have appreciable adverse effects upon adjacent and nearby lands and the uses thereof.
- (g) No home occupation shall be permitted without the prior issuance of a home occupation permit.
- (1) A home occupation permit shall be issued by the Zoning Administrator, as to a home occupation permitted under the terms of this section, upon submission of an accurate and complete application for such permit, upon a form provided by the Township, and following sufficient review by the Zoning Administrator. No public hearing shall be required, except in the case of home occupations requiring special land use approval. The application fee or other charge, if any, shall be as determined by resolution of the Township Board.
 - (2) An application for home occupation permit shall include the name and address of the applicant; the address of the property; an accurate statement completely describing the nature, scope, details and impact of the home occupation; a citation to the provision of this section under which the permit is requested, and a statement whether such home occupation is major or minor within the terms of this section; and such other pertinent information necessary to a determination whether such permit can lawfully be granted.
 - (3) If requested by the Zoning Administrator, the application shall include a site plan, drawings or other supplemental information showing the location of buildings, driveways, parking areas and other features of the home occupation and the buildings and lands devoted thereto.
 - (4) A home occupation permit shall remain in effect for a period of three years, so long as the terms of the permit and of this section are complied with, and so long as the permit is not revoked. The permit may be revoked by the Township for noncompliance, by the issuance of a stop order and an order revoking the permit, issued by the Zoning Administrator.

- (5) A home occupation permit may be renewed for unlimited successive periods of three years each. A permit holder shall apply for renewal and cooperate with the Township in providing all pertinent requested information sufficient for the Township to determine compliance with this section and otherwise to ascertain the scope, nature and impact of the home occupation at the time of renewal. The failure of a permit holder to timely cooperate with the Township in the renewal process shall be grounds for non-renewal of the permit. Any required renewal fee shall be paid.
- (6) A home occupation shall at all times comply with the minimum requirements of this section and all other applicable conditions and limitations. The expansion or enlargement of a home occupation, or its departure from any required conditions or limitations, shall be grounds for the revoking of the home occupation permit. Upon the revoking of the permit, the applicant shall not engage in the home occupation.
- (7) Upon the cessation of a home occupation for a period of 90 days, the home occupation permit shall be of no further effect.
- (8) A home occupation lawfully in existence at the time of adoption of this section, may continue to be engaged in, in the same manner and to the same extent as at the time of adoption of this section, for a period of three years only, from the effective date of this section; provided, however, that after such period of three years, the person engaged in the home occupation shall apply to the Township for the renewal thereof. The proceedings for such renewal, and the payment of the required fee shall be as stated above for the renewal of a home occupation permit.
- (9) A lawful home occupation in existence at the time of adoption of this section may not be enlarged, expanded, or increased in use intensity except in compliance with this section, including the permit provisions hereof. A home occupation that was lawful at the time of its commencement, whether by virtue of special land use approval or otherwise, but which has subsequently become enlarged, expanded, increased in scope or in use intensity, shall not be deemed an existing lawful home occupation, and in such case the permit provisions and other provisions of this section shall apply.

Section 4.38 Home-Based Businesses.

- (a) For purposes of this section, a home-based business is a business operation which is (a) incidental to a person's ownership of property and is clearly subordinate and secondary to the use of such property for residential purposes; (b) is primarily conducted away from such person's property; and (c) if such business was conducted primarily upon such property, would not be considered an industrial or commercial use.

- (b) A home-based business may be approved upon the issuance of a special land use permit by the Planning Commission, upon finding that the applicant has applied for and met the requirements to obtain a special land use permit pursuant to Chapter 15, Special Land Uses.
- (c) A home-based business may be permitted by a special land use permit in the AG, R-R, R-1, LR, R-2, R-3, and PUD Districts in accordance with this section.
- (d) All home-based businesses shall be subject to the following restrictions and regulations:
 - (1) An applicant's request for a home-based business special land use shall describe how the proposed business meets the definition of a home-based business.
 - (2) The applicant shall provide adequate surveys and legal descriptions or other materials by which the Township Board may determine the land area which will be encompassed by the home-based business (the "home-based business area"), and by which the Township Board may determine that the following requirements for a home-based business will be met:
 - a. The home-based business area includes a residential dwelling unit.
 - b. The use of the home-based business area is clearly incidental and secondary to the use of the area for residential purposes.
 - c. The home-based business is conducted primarily in locations off site from the home-based business area.
 - (3) The home-based business area may include, in addition to the lot containing the dwelling unit, adjacent and contiguous property to such lot owned by the applicant. For the purposes of this subpart, property may be contiguous even though separated by a road, as long as the property would be contiguous if not separated by a road.
 - (4) The use of the dwelling unit, for purposes related to the home-based business, shall be clearly incidental and subordinate to its use for residential purposes by its occupants.
 - (5) The on-site operations of the home-based business shall be operated in its entirety on the home-based business area approved by the Township Board in the applicant's special land use permit.
 - (6) An accessory building meeting the requirements of the district in which it is located may be used in conjunction with the operation of home-based business.

- (7) All dwellings and improvements used in connection with home-based businesses must comply with the requirements of the Fire Prevention Code, MCL 29.1 *et seq.*, as amended from time to time, and the Michigan Occupational Safety and Health Act, MCL 408.1001 *et seq.*, as amended from time to time, and the rules and regulations promulgated under the Fire Prevention Code and the Occupational Safety and Health Act.
- (8) Except for normal maintenance, no substantial changes shall be made to the outside appearance of the dwelling unit, accessory building, or home-based business area, and the operation of the home-based business shall not be incompatible with the use of the property and the use of adjacent and nearby properties for residential purposes.
- (9) One non-illuminated sign shall be permitted in the home-based business area provided that such sign:
 - a. Is not more than four square feet in area.
 - b. Is not more than four feet in height.
 - c. Is otherwise in compliance with Chapter 18, Signs, if the applicable provisions thereof are more restrictive than these provisions.
- (10) A home-based business shall not have a material negative impact upon the public health, safety or welfare of the Township or areas immediately surrounding the home-based business area, including but not limited to, over use of streets and roads, reduction in property values, change to the character of the area, blight, excessive noise, odors, or electrical interference.
- (11) No equipment or process shall be used in the home-based business which creates visual or audible interference in any electronic device off the home based business area, or causes fluctuation in line voltage off the home-based business area.
- (12) Parking or storage of vehicles or other equipment in the home-based business area is subject to the following restrictions:
 - a. Parking or storage of vehicles or other equipment related to the home-based business shall not be permitted in any required yard setback of the underlying zoning district.
 - b. The permitted parking or storage area shall be screened from adjoining lots and adjacent streets by landscaping or screening generally consistent with the industrial zoning requirements of Spencer Township.

- (13) Only those goods or products which are clearly incidental to the home-based business may be sold in the home-based business area.
- (14) Hours of operation shall be reasonable and customary for the type of home based business approved and reasonable and customary for the zoning district in which the home-based business exists.

Section 4.39 Animals and Fowl.

- (a) No animals or fowl, other than customary household pets, shall be housed or kept within 50 feet of any property line, except in the AG District. All animals and fowl in any district shall be kept under sanitary conditions and in sanitary enclosures.
- (b) In the AG, RR and R-1 Districts, livestock, such as, but not limited to, horses, cattle, goats, pigs, sheep, llamas and buffalo shall be permitted only on parcels of four acres or more; provided, however, if the parcel of land is ten acres or less in area, the number of such animals shall not exceed one animal for each acre, excluding offspring under four months of age; provided, however, that the provisions of this subsection shall not apply to farms, as defined in this Ordinance, in the AG and R-R Districts.
- (c) Livestock such as, but not limited to, horses, cattle, goats, pigs, sheep, llamas and buffalo, shall not be permitted in the R-2, R-3, LR and RPUD Districts.
- (d) Exotic, endangered or unusual animals such as, but not limited to, leopards, bobcats, wolves, coyotes, cougars, large snakes and alligators shall not be kept or maintained on any lands in the Township.

Section 4.40 Prohibition of Marihuana (“Marijuana”) Facilities and Establishments

- (a) The following uses are completely prohibited in the Township, and may not be established or operated in any zoning district, by any means, including by way of a variance:
 - (1) Any and all types of a “marihuana facility,” as that term is defined and used in the Medical Marihuana Facilities Licensing Act, MCL 333.27101, *et seq.*
 - (2) Any and all types of a “marihuana establishment,” as that term is defined and used in Michigan Initiated Law 1 of 2018, known as the Michigan Regulation and Taxation of Marihuana Act (“MRTMA”), including the following:
 - a. Marihuana grower.
 - b. Marihuana safety compliance facility.

- c. Marihuana processor.
 - d. Marihuana microbusiness.
 - e. Marihuana retailer.
 - f. Marihuana secure transporter.
- (3) Any other type of marihuana-related business that is subject to licensing by the state department of licensing and regulatory affairs (“LARA”) under the MRTMA or the rules promulgated thereunder.
- (b) This Section 4.40 does not limit any privileges, rights, immunities or defenses of a person as provided in the Michigan Medical Marihuana Act, Michigan Initiated Law 1 of 2008, MCL 333.26421, *et seq.*
- (c) This Section 4.40 does not restrict or prohibit the transportation of marihuana through the Township (1) by a marihuana secure transporter who is licensed to operate in another municipality, or (2) by means otherwise authorized by state law.

Section 4.41 Commercial Solar Energy Systems. (Added by Ord No. 22-Z2, adpt 12/20/2022, eff. 01/27/2022)

Commercial solar energy systems are permitted as a special land use which requires the approval of the Township Board, upon recommendation of the Planning Commission, and which comply with the terms and conditions of this sections as well as with Chapter 15, Governing Special Land Uses.

- (a) **Definitions.** For the purposes of this section, the following terms and phrases shall be defined as follows:
- (1) **Maximum Sound Level (Lmax).** The maximum sound pressure level for a given period of time or noise event.
 - (2) **Solar Energy System.** A system (including solar collector surfaces and ancillary solar equipment) either affixed to a permanent principal or accessory building or functioning as a free standing structure, that collects, stores, and distributes solar energy for heating or cooling, generating electricity, or heating water. Solar Energy Systems include but are not limited to photovoltaic (PV) systems, solar hot water systems, and solar thermal systems.
 - (3) **Photovoltaic.** Materials and devices that absorb sunlight and convert it directly into energy.
 - (4) **Property Owner, Operator or Lessor.** Any person agent, firm, corporation, or partnership that alone, jointly, or severally with others:

- a. Has legal or equitable title to any premises, dwelling, or dwelling unit, with or without accompanying actual possession thereof; or
 - b. Has charge, care, control of any premises, dwelling or dwelling unit, as agent of the owner or as executor, administrator, trustee, or guardian of the estate of the beneficial owner. The person shown on the records of the Kent County Register of Deeds to be the owner of a particular property shall be presumed to be the person in control of that property.
- (5) **Solar Array.** A photovoltaic panel, solar thermal collector, or collection of panels or collectors in a solar energy system that collects solar radiation.
- (6) **Solar Collector Surface.** Any part of a solar energy system that absorbs solar energy for use in the system's transformation process. The collector surface does not include frames, supports, and mounting hardware.
- (7) **Solar Energy.** Radiant energy received from the sun that can be collected in the form of heat or light by a solar energy system.
- (8) **Commercial Solar Energy System.** A solar energy system that meets one or more of the following:
- a. It is primarily used for generating electricity for sale and distribution to an authorized public utility for use in the electrical grid;
 - b. The total surface area of all solar collector surfaces exceeds ten-thousand (10,000) square feet; and/or
 - c. It is a principal use or principal structure on a parcel.
- (b) **Application.** An application for special land use for a commercial solar energy system shall include all the following, including in addition to the requirements under Chapter 15:
- (1) **General Information**
- a. The name, address, telephone number and email for the of the applicant, and the name and address of each owner, partner, director, officer and manager of the business entity applying for the special land use of that will be engaged in the operation or maintenance of the commercial solar energy system.
 - b. The name under which the business is to be conducted, and if the business is a partnership, limited liability company or corporation, the state of registration or incorporation.

- c. The name, address, telephone number and email of the property owner of the parcel.
 - d. A statement showing whether the applicant or any owner, partner, director, officer or manager has previously applied for a special land use for a commercial solar energy system, the result of the application and whether the permit was revoked or suspended.
- (2) **Site Plan Required.** An application for special land use approval for a commercial solar energy system shall include a site plan in accordance with Chapter 17. In addition to the information required for site plan approval in Chapter 17, all applications must also include the following:
- a. Equipment and unit renderings.
 - b. Elevation drawings.
 - c. Setback from property lines and adjacent structures, and height of proposed structures.
 - d. Written permission from the property owner authorizing the commercial solar energy system.
 - e. A copy of the applicant’s lease with the property owner or the equivalent evidence of such a lease.
 - f. All additional plans and requirements set forth in this section.
- (3) **Escrow.** An application for a commercial solar energy system special land use shall be accompanied by an escrow, established by resolution of the Township Board from time to time, for the purpose of defraying the Township’s costs incurred in reviewing an application under this Section. Any unused portion of the escrow shall be refunded to the applicant after Planning Commission and Township Board review of the application is complete.
- (c) **Requirements.** A commercial solar energy system shall comply with the following requirements.
- (1) **Lot Area and Lot Coverage.** Commercial solar energy systems shall be located on a lot of at least twenty (20) acres. The project area of commercial solar energy systems shall not exceed 250 acres. “Project area” means the surface area of all land covered by solar arrays, including spacing between rows of panels, but not including setbacks required by this Section, regardless of whether the project area is located on one or multiple parcels within the Township. Prior to a special land use approval becoming effective, all lands in the project area shall be under single ownership or under common control, and if multiple parcels are involved

those parcels shall be combined into one parcel prior to the commencement of construction or the issuance of any permits. Proof of single ownership or joint control shall be provided in writing to the Township.

- (2) **Drainage and Ground Cover.** Proposed drainage and stormwater management shall be reviewed by the Township Engineer and commercial solar energy systems shall not be located within seventy-five (75) feet of a drainage easement. Ground cover beneath the solar energy collectors must be planted with crops or native plants that benefit pollinators, decrease erosion, and/or improve wildlife habitat, unless specifically modified by the Planning Commission. Supports shall be constructed to preserve any drainage field tile and/or drainage system(s). Any and all broken or missing field tiles shall be repaired and restored to operable condition as soon as possible but no more than three (3) months after damage and/or failure. The applicant shall obtain required permits from the Michigan Department of Environment, the Great Lakes, and Energy and other required governmental approvals.
- (3) **Setbacks.** Solar energy collectors and ancillary solar equipment affiliated with a commercial solar energy system shall be located at least three hundred (300) feet from the lot line(s) of the property and from all rights of way. In addition, solar energy collectors and ancillary solar equipment affiliated with a commercial solar energy system shall be located at least three hundred (300) feet from all existing residential dwellings, as measured from the foundation of the dwelling to the nearest part of any collector or equipment, and shall also be located at least three hundred (300) feet from the edge of the normal high water mark of any lake, stream, or other body of water. Screening methods may be permitted within the setbacks.
- (4) **Height.** Commercial solar energy systems shall not exceed twenty (20) feet in height, measured from the natural grade below the unit to the highest point at full tilt. The Township may permit a commercial solar energy system with a height not to exceed thirty-five (35) feet upon a showing that the additional height is necessary to proper functionality or allows for agricultural uses below the system, and that it will not have a substantial adverse effect on adjacent or nearby lands. Substation, building and electrical transmission equipment shall not exceed thirty-five (35) feet.
- (5) **Certified Solar Array Components.** Components of a solar array shall be approved by the Institute of Electrical and Electronics Engineers (“IEEE”), Solar Rating and Certification Corporation (“SRCC”), Electronic Testing Laboratories (“EIL”), or other similar certification organization if the similar organization is approved by the Township, which approval shall not be unreasonably withheld.

- (6) **Noise.** Noise emanating from the commercial solar energy system, including inverter noise, shall not exceed forty-five (45) decibels (dBA) L_{max} as measured from any property line. The Township Board may reduce the maximum noise level for any particular commercial solar energy system in order to protect adjacent residents and property owners.
- (7) **Exterior Lighting.** Exterior lighting of the commercial solar energy system shall be limited to the minimum lighting necessary, supplied with downward facing lighting, that does not direct light beyond the area illuminated or on to adjacent properties or result in excess illumination levels. The light from any illuminated source shall be designed so that the light intensity or brightness at a distance of twenty (20) feet from the perimeter of the commercial solar energy system shall not exceed one (1) foot candle. The Township may require the submission of a photometric plan for review to make this determination.
- (8) **Signage.** No advertising or non-project related graphics shall be on any part of the solar arrays or any other components of the commercial solar energy system. This exclusion does not apply to entrance gate signage or notification containing points of contact or any and all other information that may be required by the Township and other authorities having jurisdiction for electrical operations and the safety and welfare of the public. A clearly-visible warning sign concerning voltage shall be placed at the base of all pad mounted transformers and substations.
- (9) **Screening.** The Township may require that a commercial solar energy system be screened from residential properties or public rights-of-way. Landscaping and screening requirements shall comply with the requirements in the Zoning Ordinance and conditions of the Planning Commission and Township Board.
- (10) **Glare and Reflection.** The exterior surfaces and structural components of commercial solar energy systems shall be generally neutral in color and substantially non-reflective of light. With the exception of the energy collecting surface, the color of framing and structural equipment shall be muted soft white, gray, galvanized, or other similar neutral color that blends into the environment or structure on which it is located. The Township may request that a paint sample be provided to demonstrate consistent appearance in paint finish and color. A solar collector surface shall not be installed or located so that sunlight or glare is reflected into neighboring structures or onto adjacent streets. Ocular impacts shall be analyzed over the entire calendar year in five (5) minute intervals from when the sun rises above the horizon until the sun sets below the horizon.
- (11) **Location and Siting.** Commercial solar energy systems shall be located in the area least visibly obtrusive to adjacent residential properties while

remaining functional and shall be located within a reasonable proximity of an electrical substation and powerlines.

- a. Property enrolled in PA 116 Farmland and Open Space Preservation Program shall not be eligible for use as part of a commercial solar energy system.
- b. The applicant shall provide evidence of compliance with applicable State and Federal laws.

- (12) **Obstruction.** Commercial solar energy systems shall not obstruct solar access to adjacent and neighboring properties.
- (13) **Distribution, Transmission, and Interconnection.** All collection lines and interconnection from the solar array(s) to any electrical substation shall be located and maintained underground inside the commercial solar energy system, except in areas where technical or physical constraints make it preferable to install equipment above ground. This requirement excludes transmission equipment meant to connect the project substation to the local transmission system.
- (14) **Fencing.** For the purpose of restricting unauthorized access to the site, the Planning Commission may require that the perimeter of a commercial solar energy system be fenced in with at least a six (6) foot high fence.
- (15) **Permits.** If approved as special land use, no commercial solar energy system shall be constructed, installed, operated, maintained, or modified as provided in this section without first obtaining a zoning permit, building permit, and all other applicable permits. The construction, installation, operation, maintenance, or modification of all utility-grid solar systems shall be consistent with all applicable local, state and federal requirements, and all buildings and structures that comprise a commercial solar energy system shall be constructed, installed, operated, and maintained in strict accordance with the Michigan Building Code, the Electrical Code, and the manufacturer's specifications. Installation of the commercial solar energy system shall not commence until all necessary permits have been issued.
- (16) **Operation and Maintenance Plan.** The applicant shall submit a plan for the operation and maintenance of the commercial solar energy system, which shall include measures for maintaining safe access to the installation, storm water controls, as well as general procedures of operational maintenance of the installation, as applicable.
- (17) **Liability Insurance.** The applicant, owner or operator shall maintain a current general liability policy covering bodily injury and proper damage with limits of at least \$1 million per occurrence and \$1 million in the

aggregate and provide proof that it meets the insurance requirement to the Zoning Administrator prior to approval.

- (18) **Emergency Services.** Upon request by the Township, the owner or operator of the commercial solar energy system shall cooperate with local emergency services in developing an emergency response plan. All means of shutting down the solar energy system shall be clearly marked. The owner or operator shall identify a responsible person for public inquiries throughout the life of the installation. An information sign shall be posted above the entrance(s) which lists the name and phone number of the operator.
- (19) **Roads.** The applicant shall abide by all county and state requirements regarding the use and/or repair of county and state roads. There shall be a perimeter access road around the entire perimeter of the site, located just inside the security fencing. In addition, there shall be interior access roads between every third row of solar arrays. All interior roads shall not be less than fifteen (15) feet wide. Interior roads may be paved or gravel but in either case shall be maintained so as to allow unobstructed passage and maneuvering by emergency vehicles, including for snow removal. The terminal location of all interior roads shall be designed so as to permit emergency vehicles to safely turn around. Any material damage to a public road within the Township resulting from the construction, maintenance or operation of a commercial solar energy system shall be repaired at the applicant's expense.

(d) **Maintenance and Inspection.**

- (1) **Maintenance.** The commercial solar energy system's owner or operator shall maintain the facility in good condition at all times. If the Zoning Administrator determines that a commercial solar energy system fails to meet the requirements of this Section and the special land use permit, or that it is damaged, nonworking, or poses a safety hazard or blight, the Zoning Administrator, or his or her designee, shall provide notice to the applicant of the violation. Maintenance shall include, but not be limited to, structural repairs, safety-related upgrades, and integrity of security measures. Site access roads or drives shall be maintained to a level acceptable to local emergency services personnel. The owner and operator shall both be responsible for the cost of maintaining the solar photovoltaic installation and any access road(s).
- (2) **Repair.** In the event that the owner and/or operator fails to repair any portion of a commercial solar energy system within thirty (30) days of the notice from the Township described above, then the Township shall be authorized to enter on the property and have the repairs completed at the owner's and operator's expense. The Township may be reimbursed by the surety/security posted to cover the cost of removal provided for under

subsection (f) below or through enforcement of the zoning ordinance in court.

- (3) **Inspection.** The applicant shall agree in writing that officials of the Township shall have the right, at any reasonable time, following notice to the applicant or owner or operator, to inspect within 30 days the premises on which any commercial solar energy system is located. The Township may hire one or more consultants to assist with inspections at the applicant or owner or operator's expense.
- (4) **Enforcement.** Failure to maintain compliance with this Section shall result in enforcement action which may include the termination, suspension, or revocation of the special land use, or portions of the special land use. Actions taken by the Township to terminate or modify the special land use or portions of the special land use shall require a public hearing and notification to the owner or operator of the commercial solar energy system pursuant to the conditions of the original permit and in accordance with Chapter 15 of the Zoning Ordinance.

(e) **Decommissioning, Abandonment and Removal.**

- (1) **Reclamation Plan.** The applicant for a commercial solar energy system shall describe the decommissioning and final land reclamation plan to be followed after the anticipated life, abandonment, or termination of the commercial solar energy system, including evidence of proposed commitments with property owners to ensure proper final reclamation of the property.
- (2) **12-month Limit.** Any solar array or combination of photovoltaic devices that is not operated for a continuous period of twelve (12) months shall be considered abandoned and shall be removed under the decommissioning plan.
- (3) **Removal.** Any commercial solar energy system which has reached the end of its useful life or has not operated continuously for twelve (12) months or more shall be removed and the owner or operator shall be required to restore the site. The owner or operator shall physically remove the installation no more than one hundred and fifty (150) days after the date of discontinued operations and/or notice or abandonment sent by the Township.
- (4) **Notice.** The owner or operator shall notify the Township personally or by certified mail of the proposed date of discontinued operations and plans for removal.
- (5) **Township Removal.** If the owner or operator fails to remove the installation in accordance with the requirements of this Section within one

hundred and fifty (150) days of abandonment, proposed date of decommissioning, or notice of abandonment sent by the Township, the Township may enter the property and physically remove the installation and recover the cost from the surety/security provided below or through enforcement of the zoning ordinance in court.

(6) **Removal and Reclamation.** Removal of the installation shall consist of at least the following:

- a. Physical removal of all aboveground or underground commercial solar energy systems, structures, equipment, security barriers, roads, and transmission lines from the site.
- b. Disposal of all solid and hazardous waste in accordance with local, state, and federal waste disposal regulations.
- c. Stabilization and re-vegetation of the site with seasonal grasses as necessary to minimize erosion. If the property was used for agricultural purposes at the time of installation, the property shall be returned to agricultural-ready condition.

(f) **Continuing Surety/Security.** The applicant and owner and operator of a commercial solar energy system shall provide a form of surety, either through escrow account, letter of credit, bond, or other instrument acceptable to the Township Attorney. The surety shall be maintained with a company licensed to do business in the State of Michigan or a Federal or State-chartered lending institution acceptable to the Township. Any bonding company or lending institution shall provide to the Township within 90 days' notice of the expiration of the security bond, escrow, or irrevocable letter of credit. In the event of the sale or transfer of ownership and/or operation of the commercial solar energy system, the security bond, escrow, or irrevocable letter of credit shall be maintained throughout the entirety of the process and the new owner or operator shall be required to provide a new security bond, escrow, or irrevocable letter of credit. If at any time during the operation of the commercial solar energy system or prior to, during or after the sale or transfer of ownership and/or operation of the commercial solar energy system the security bond, escrow, irrevocable letter of credit is not maintained, the Township may take any action permitted by law, revoke the special land use, order a cessation of operations, and order removal of the system and reclamation of the site.

The purpose of the surety is to cover the cost of repair or removal of the commercial solar energy system in the event the Township must remove the installation during or after construction. The amount of the financial surety shall not exceed more than one hundred and twenty-five (125%) percent of all costs of removal and compliance with the additional requirements set forth herein. It shall be submitted by the applicant and be prepared by a qualified engineer. The applicant, owner or operator shall update the surety every three (3) years to ensure

that the surety is sufficient compared to inflation. The surety shall be subject to review and approval by the Township and shall be a condition of special land use approval.

- (g) **Completion of Construction.** The construction of any commercial solar energy system must commence within a period of one (1) year from the date a special land use permit is granted, and must be completed within a period of three (3) years from the date a special land use permit is granted. The Planning Commission or Township Board may grant an extension not to exceed one (1) year, provided the applicant requests the extension prior to the date of the expiration of special land use approval. Failure to complete construction within the permitted time period shall result in the approved special land use permit being rendered null and void.
- (h) **Compliance with Federal Law.** Commercial solar energy systems shall be constructed, operated, and maintained in compliance with all Federal Aviation Administration (“FAA”) guidelines and regulations.
- (i) **Safety.** The Planning Commission shall not recommend for approval any commercial solar energy system if it finds that the commercial solar energy system will pose an unreasonable safety hazard to the occupants of any surrounding properties or area wildlife.
- (j) **Conditions.** In addition to the requirements of this Section, the Planning Commission or Township Board may impose additional reasonable conditions on the approval of a commercial solar energy system as a special land use.
- (k) **Reduction of Requirements.** In the case of a commercial solar energy system which is so classified based on its surface area, but which is used to generate electricity for use on the parcel on which it is located, the Township may waive or reduce these requirements in consideration of the nature of use.

(Section 4.41 Added by Ord No. 22-Z2, adpt 12/20/2022, eff. 01/27/2022)

CHAPTER 5

AG-AGRICULTURAL DISTRICT

Section 5.01 Description and Purpose. This district is intended primarily for farming, animal husbandry, dairying, and other agricultural activities, and for single family dwellings.

Section 5.02 Permitted Uses. Land, buildings and structures in this district may be used for the following purposes only:

- (a) Farms and farming activities, on parcels of land not less than ten acres in area, including farm buildings and other farm structures; provided, however, that intensive livestock operations shall be permitted only as a special land use.
- (b) Single family dwellings.
- (c) Orchards, vineyards, apiaries, kennels and stables.
- (d) Greenhouses and nurseries.
- (e) Roadside stands and other agricultural accessory structures for the display and sale of produce grown on the premises and for the display and sale of meat butchered or processed from animals raised on the premises.
- (f) Family day care homes for not more than six minor children.
- (g) State-licensed adult foster care family homes for not more than six adults.
- (h) Accessory buildings, structures and uses customarily incidental to any permitted use or special land use.
- (i) Building permits for agricultural buildings shall not be required, except to the extent required by the Township building code.
- (j) Single family housing developments meeting the qualifying conditions of Section 11A.02 are permitted in accordance with the requirements of Chapter 11A.
- (k) Wind Energy Conversion Systems which do not exceed 100 feet in height and which comply with the requirements of Section 4.30.
- (l) Short-Term Rental in compliance with the Spencer Township Short Term Rental Permit Ordinance.

Section 5.03 Special Land Uses. The following uses may be permitted as special land uses subject to the requirements of Chapter 15:

- (a) Private and public schools, libraries, museums, and similar uses, when owned and operated by a governmental agency or nonprofit organization.
- (b) Parks, camps, campgrounds, playgrounds, community centers, churches, governmental, administration, or service buildings which are owned and operated by a governmental agency or a nonprofit organization.
- (c) Golf courses, country clubs, commercial riding stables, private recreation areas and publicly-owned athletic grounds.
- (d) Bed and breakfast establishments.
- (e) Family day care homes for more than six minor children.
- (f) State-licensed adult foster care family homes for more than six adults.
- (g) Junk yards, recycling stations and salvage yards.
- (h) Removal and processing of sand, gravel and other mineral resources.
- (i) Utility and public service buildings.
- (j) Farm markets.
- (k) Intensive livestock operations.
- (l) Private airfields and private aircraft landing strips.
- (m) Antennas and towers exceeding 75 feet in height.
- (n) Private shooting ranges.
- (o) Application of sewage sludge.
- (p) Gunsmithing in single family dwellings and accessory buildings only.
- (q) Outdoor recreational events including but not limited to rodeos, animal shows and cattle auctions.
- (r) Storage of motor vehicles and other equipment used in and for land services, where no business activities are carried out on the premises, where there are no serious adverse effects on other lands.
- (s) Storage of semi-tractor trailers and other large commercial motor vehicles, where no business activities are carried out on the premises and where there are no serious adverse effects on other lands.
- (t) Wind Energy Conversion Systems which exceed 100 feet or which otherwise do not comply with the requirements of Section 4.30.

- (u) Commercial Solar Energy Systems that comply with Section 4.41 and the general requirements for special land use in Section 15.03. *(Added Ord No. 22-Z2, adpt. 12/20/2022, eff. 01/27/2023.)*

Section 5.04 District Regulations. Land, buildings and structures shall comply with all of the following requirements:

- (a) **Minimum Lot Area and Minimum Lot Width.** One acre with 200 feet of lot width, except that the minimum lot area for a farm shall be ten acres.
- (b) **Minimum Required Building Setbacks.**
 - (1) **Front Yard.** Fifty feet.
 - (2) **Side Yard.** There shall be two side yards; no side yard shall be less than 20 feet.
 - (3) **Rear Yard.** Thirty feet.
 - (4) No building or structure shall exceed a height of 35 feet, except this requirement shall not apply to agricultural buildings or agriculturally-related structures.

Section 5.05 Minimum Floor Area. Each dwelling shall have a minimum of 960 square feet of usable floor area.

CHAPTER 6

R-R RURAL RESIDENTIAL DISTRICT

Section 6.01 Description and Purpose. This district is intended primarily for agricultural activities and single family dwellings.

Section 6.02 Permitted Uses. Land, buildings and structures in this district may be used for the following purposes only:

- (a) Farms and farming activities, on parcels of land not less than ten acres in area, including farm buildings and other farm structures; provided, however, that intensive livestock operations shall be permitted only as a special land use.
- (b) Single family dwellings.
- (c) Family day care homes for not more than six minor children.
- (d) State-licensed adult foster care family homes for not more than six adults.
- (e) Roadside stands and other agricultural accessory structures for the display and sale of produce grown on the premises and for the display and sale of meat butchered or processed from animals raised on the premises.
- (f) Accessory buildings, structures and uses customarily incidental to any permitted use or special land use.
- (g) Single family housing developments meeting the qualifying conditions of Section 11A.02 are permitted in accordance with the requirements of Chapter 11A.
- (h) Wind Energy Conversion Systems which do not exceed 100 feet in height and which comply with the requirements of Section 4.30.
- (i) Short-Term Rental in compliance with the Spencer Township Short Term Rental Permit Ordinance.

Section 6.03 Special Land Uses. The following uses may be permitted as special land uses subject to the requirements of Chapter 15:

- (a) Private and public schools, libraries, museums, and similar uses, when owned and operated by a governmental agency or nonprofit organization.
- (b) Parks, playgrounds, community centers, churches, governmental, administration, or service buildings which are owned and operated by a governmental agency or a nonprofit organization.
- (c) Bed and breakfast establishments.

- (d) Family day care homes for more than six minor children.
- (e) State-licensed adult foster care family homes for more than six adults.
- (f) Removal and processing of sand, gravel and other mineral resources.
- (g) Private shooting ranges.
- (h) Farm markets.
- (i) Utility and public service buildings.
- (j) Gunsmithing in single family dwellings and accessory buildings only.
- (k) Antennas and towers exceeding a height of 75 feet.
- (l) Wind Energy Conversion Systems which exceed 100 feet or which otherwise do not comply with the requirements of Section 4.30.

Section 6.04 District Regulations. Land, buildings and structures shall comply with all of the following requirements:

- (a) **Minimum Lot Area and Minimum Lot Width.** One acre with 150 feet of lot width, except that the minimum lot area for a farm shall be ten acres.
- (b) **Minimum Required Building Setbacks.**
 - (1) **Front Yard.** Fifty feet.
 - (2) **Side Yard.** There shall be two side yards. No side yard shall be less than 20 feet.
 - (3) **Rear Yard.** Thirty feet.
- (c) **Maximum Building and Structure Height.** Thirty five feet, except this requirement shall not apply to agricultural buildings or agriculturally-related structures.

Section 6.05 Minimum Floor Area. Each dwelling shall have a minimum of 960 square feet of usable floor area.

CHAPTER 7
R-1 SINGLE FAMILY RESIDENTIAL DISTRICT

Section 7.01 Description and Purpose. This district is intended primarily for single family dwellings, established at a building density greater than that permitted in the R-R District. Certain related non-residential uses are also provided.

Section 7.02 Permitted Uses. Land, buildings and structures in this district may be used for the following purposes only:

- (a) Single family dwellings.
- (b) Family day care homes with not more than six minor children.
- (c) State-licensed adult foster care family homes for not more than six adults.
- (d) Accessory buildings, structures and uses customarily incidental to any permitted use or special land use.
- (e) Single family housing developments meeting the qualifying conditions of Section 11A.02 are permitted in accordance with the requirements of Chapter 11A.
- (f) Short-Term Rental in compliance with the Spencer Township Short Term Rental Permit Ordinance.

Section 7.03 Special Land Uses. The following uses may be permitted as a special land use subject to the requirements of Chapter 15:

- (a) Private and public schools, libraries, museums, and similar uses, when owned and operated by a governmental agency or nonprofit organization.
- (b) Parks, playgrounds, community centers, churches, governmental, administration, or service buildings which are owned and operated by a governmental agency or a nonprofit organization.
- (c) Bed and breakfast establishments.
- (d) Family day care homes for more than six minor children.
- (e) State-licensed adult foster care family homes for more than six adults.
- (f) Gunsmithing in single family dwellings and accessory buildings only.

Section 7.04 District Regulations. Land, buildings and structures shall comply with all of the following requirements:

- (a) Where no public or community sewer system is provided, there shall be a minimum lot area of 35,000 square feet and a minimum lot width of 150 feet.

- (b) Where a public or community sewer system is provided, there shall be a minimum lot area of 20,000 square feet and a minimum lot width of 120 feet.
- (c) **Minimum Required Building Setbacks.**
 - (1) **Front Yard.** Fifty feet.
 - (2) **Side Yard.** There shall be two side yards; no side yard shall be less than 15 feet.
 - (3) **Rear Yard.** Thirty feet.
- (d) **Maximum Building and Structure Height.** Thirty five feet.

Section 7.05 Minimum Floor Area. Each dwelling shall have a minimum of 960 square feet of usable floor area.

CHAPTER 8

LR LAKE RESIDENTIAL DISTRICT

Section 8.01 Description and Purpose. This district is intended to promote and encourage the proper use and development of lands abutting lakes and waterways and to avoid land development at building densities which could lead to the unnecessary degradation of the quality of surface waters and associated lake and waterway environment.

Section 8.02 Permitted Uses. Land, buildings and structures in this district may be used for the following purposes only:

- (a) Single family dwellings.
- (b) Family day care homes with no more than six minor children.
- (c) State-licensed adult foster care family homes with no more than six adults.
- (d) Accessory buildings, structures and uses customarily incidental to any permitted use or special.
- (e) Single family housing developments meeting the qualifying conditions of Section 11A.02 are permitted in accordance with the requirements of Chapter 11A.
- (f) Short-Term Rental in compliance with the Spencer Township Short Term Rental Permit Ordinance.

Section 8.03 Special Land Uses. The following uses may be permitted as a special land use subject to the requirements of Chapter 15:

- (a) Public and private non-commercial parks, play grounds, athletic fields and community center buildings.
- (b) Bed and breakfast establishments.
- (c) Family day care homes for more than six minor children.
- (d) State-licensed adult foster care family homes for more than six adults.
- (e) Buildings or structures not devoted to a principal use and not accessory to a principal structure or use located or being conducted on the same lot, upon compliance with the requirements of Chapter 15 and the following additional conditions:
 - (1) The building or structure cannot reasonably be located on the same lot as the principal structure or use of the applicant, and does not have substantial adverse effects upon the adjoining or nearby lands.

- (2) The building or structure shall be used only for storage of items devoted to or used exclusively for storage of automobiles, recreational equipment, and other equipment customarily incident and subordinate to a residential use.
- (3) Not more than one such building or structure may be located on a lot directly across a public or private street from a lot improved with a principal dwelling, if both lots are under common ownership. As a condition of special land use approval, restrictive deed covenants shall be imposed against both such lots, prohibiting their separate sale unless the building or structure is removed, or the lot on which it is located is improved by a principal dwelling, in compliance with the Zoning Ordinance.
- (4) The building or structure shall not be used as a dwelling or for sleeping purposes.
- (5) The building or structure shall comply with the minimum setback requirements in the district. The Planning Commission may increase the setbacks, reduce the height, or otherwise alter the minimum requirements for the district in order to make the building compatible with adjacent properties or nearby lands. The minimum lot area and width requirements shall not be applicable to a lot on which only such building or structure is located if approved by the Planning Commission.
- (6) The area of the building or structure shall not exceed 1,200 square feet, subject to reduction in accordance with the standards for special land uses set forth in Chapter 15.

Section 8.04 District Regulations.

- (a) Where no public or community sewer system is provided, there shall be a minimum lot area of at least 35,000 square feet and a minimum lot width of not less than 125 feet.
- (b) Where a public or community sewer system is provided, there shall be a minimum lot area of at least 20,000 square feet and a minimum lot width of not less than 100 feet.

(c) **Minimum Required Building Setbacks.**

- (1) **Front Yard.** Thirty feet in the case of lots or parcels having frontage on a body of water; but the front yard shall be a minimum of 35 feet in the case of lots or parcels not having frontage on a body of water; provided, however that on lots or parcels of land fronting on Coopers Creek and Clear Creek east of Lincoln Lake Avenue, the minimum front yard building setback shall be 100 feet from the shoreline.
- (2) **Side Yard.** There shall be two side yards; no side yard shall be less than ten feet.
- (3) **Rear Yard.** Thirty feet.

(d) **Maximum Building Height.** Thirty five feet.

Section 8.05 Maximum Floor Area. Each dwelling shall have a minimum of 960 square feet of usable floor area.

Section 8.06 Other Regulations. The following additional regulations shall be complied with:

- (a) Accessory structures located between the waterfront and the principal dwelling shall comply with Section 4.16, pertaining to accessory structures and accessory uses.
- (b) Docks shall be located not closer than ten feet from any side lot line.
- (c) Docks, boat landings, rafts, and similar structures in lakes or other bodies of water shall not be located so as to be a hazard to navigation or to substantially interfere with the reasonable use of a lake or other body of water.
- (d) Docks, boat landings, rafts, and similar structures in lakes or other bodies of water shall be securely constructed and anchored so as not to be unsafe or hazardous to persons who may use the same. All such structures be maintained in good and safe condition.
- (e) Along Coopers Creek and Clear Creek east of Lincoln Lake Avenue, a 25-foot wide no-disturb area shall be maintained on both sides of the creeks. In such area, trees and shrubs may be pruned so as to make possible a filtered view of the creeks, but clear cutting within such no-disturb area is prohibited. Further, the no-disturb area shall be subject to the following requirements:
 - (1) Dead, diseased, unsafe or fallen trees and noxious plants or noxious shrubs may be removed.

- (2) Selected and limited removal of trees or limited trimming of trees for improvement of view or for public utility purposes shall be permitted upon approval of the Zoning Administrator. Such approval shall not be granted if, in the opinion of the Administrator, the proposed removal or trimming would constitute an excessive removal or cutting of natural vegetation.
- (f) Section 4.28, pertaining to docks and similar structures, shall be complied with.

CHAPTER 9

R-2 TWO FAMILY AND MULTIPLE FAMILY RESIDENTIAL DISTRICT

Section 9.01 Description and Purpose. This district is intended primarily for residential uses and compatible non-residential uses. Among other uses, the district provides for housing opportunities in addition to single family dwellings, while preserving the generally rural residential character of the Township.

Section 9.02 Permitted Uses. Land, buildings and structures in this district may be used for the following purposes only:

- (a) Single family dwellings.
- (b) Two family dwellings.
- (c) Family day care homes for not more than six minor children.
- (d) State-licensed adult foster care family homes for not more than six adults.
- (e) Single family and two family housing developments meeting the qualifying conditions of Section 11A.02 are permitted in accordance with the requirements of Chapter 11A.

Section 9.03 Special Land Uses. The following uses may be permitted as special land uses subject to the requirements of Chapter 15:

- (a) Multiple family dwellings.
- (b) Private and public schools, libraries, museums, and similar uses, when owned and operated by a governmental agency or nonprofit organization.
- (c) Parks, playgrounds, community centers, churches, governmental, administration, or service buildings which are owned and operated by a governmental agency or a nonprofit organization.
- (d) Bed and breakfast establishments.
- (e) Family day care homes for more than six minor children.
- (f) State-licensed adult foster care family homes for more than six adults.

Section 9.04 Other Uses. The following other uses are permitted as provided in this Ordinance:

- (a) Accessory buildings and other accessory uses as regulated under Section 4.16.
- (b) Signs as regulated under Chapter 18.

- (c) Off-street parking and loading as regulated by Chapter 19.

Section 9.05 District Regulations. Buildings and structures shall not be erected or enlarged unless the following requirements are satisfied:

(a) **For Single Family Dwellings.**

- (1) Where no public or community sewer system is provided, there shall be a minimum lot area of 35,000 square feet and a minimum lot width of 150 feet.
- (2) Where a public or community sewer system is provided, there shall be a minimum lot area of 20,000 square feet and a minimum lot width of 120 feet.

(b) **Two Family Dwellings.**

- (1) Where no public or community sewer system is provided, there shall be a minimum lot area of one acre and a minimum lot width of 150 feet.
- (2) Where a public or community sewer system is provided, there shall be a minimum lot area of 35,000 square feet and a minimum lot width of 120 feet.

(c) **Multiple Family Dwellings.**

- (1) The minimum lot area shall be two acres for the first two dwelling units plus 15,000 square feet for each additional dwelling unit, and the minimum lot width shall be 200 feet; provided, however, that in granting a special land use for multiple family dwellings, the Planning Commission may approve a different minimum lot area and a different minimum lot width, upon a finding by the Commission that such different minimum provisions will not result in any serious adverse effects upon the lands involved or upon adjacent or nearby lands.

(d) **Minimum Required Building Setbacks for all Uses Except Multiple Family Dwellings.**

- (1) **Front Yard.** Fifty feet.
- (2) **Side Yard.** Each side yard shall be not less than 15 feet in width.
- (3) **Rear Yard.** Thirty feet.

- (e) **Minimum Required Building Setbacks for Multiple Family Dwellings.**
 - (1) **Front Yard.** Fifty feet.
 - (2) **Side Yard.** Thirty feet.
 - (3) **Rear Yard.** Thirty feet.
- (f) **Maximum Building Height.** Thirty five feet.
- (g) Buildings within a multiple family dwelling development shall be located at least 30 feet away from each other.

Section 9.06 Minimum Floor Area. Each single family dwelling shall have a minimum of 960 square feet of usable floor area. Each dwelling unit in a two family dwelling shall have a minimum of 840 square feet of usable floor area. Each dwelling unit in a multiple family dwelling building shall have a minimum amount of usable floor area as follows: At least 650 square feet for each one bedroom unit; at least 750 square feet for each two bedroom unit; and at least 840 square feet for each three bedroom unit.

Section 9.07 Other Regulations.

- (a) Site plan approval is required for all multiple family dwellings.
- (b) For any multiple family dwelling, or within any multiple family dwelling development, permitted accessory buildings shall be subject to the approval of the Planning Commission, as a part of special land use approval for such multiple family dwelling use, but any such accessory building may be only for common use, and there shall be no individual accessory buildings to serve a single apartment or a single dwelling unit.

CHAPTER 10
R-3 MANUFACTURED HOUSING COMMUNITY DISTRICT

Section 10.01 Description and Purpose. This district is intended to provide regulations for mobile home and manufactured housing residential developments, so as to provide for additional variety in housing opportunities and choices.

Section 10.02 Permitted Uses. Land, buildings and structures in this district may be used for the following purposes only:

- (a) Mobile homes and manufactured homes located in a state-licensed manufactured housing community.
- (b) State-licensed manufactured housing community, also known as a manufactured housing community.
- (c) Family day care homes.
- (d) State-licensed adult foster care homes.
- (e) Single family dwellings permitted and as regulated in the R-R District.

Section 10.03 Special Land Uses. The following uses may be permitted as a special land use subject to the requirements of Chapter 15:

- (a) Utility and public service buildings, without storage yards.
- (b) Community buildings within a manufactured housing community.

Section 10.04 Other Uses. Except in state-licensed manufactured housing communities, the following other uses may be permitted as provided in this Ordinance:

- (a) Accessory buildings and other accessory uses as regulated under Section 4.16.
- (b) Signs as regulated under Chapter 18.
- (c) Off-street parking and loading as regulated by Chapter 19.

Accessory buildings, accessory uses, signs, and off-street parking and loading are permitted in a state-licensed manufactured housing community only if permitted by and as regulated by Sections 10.05 through 10.07 of this Ordinance.

Section 10.05 Manufactured Housing Community Requirements. All manufactured housing communities shall comply with the following design requirements:

- (a) **Access and Roads.**
 - (1) The community's internal roads shall have access to a public thoroughfare or shall be connected to a public thoroughfare by a permanent easement.

- (2) Two access points shall be provided to a public thoroughfare to allow a secondary access for emergency vehicles. A boulevard entrance extending to the first intersection of a community road shall be interpreted as satisfying this requirement.
- (3) All internal roads shall be constructed of concrete or bituminous asphalt and supported by a suitable subgrade in compliance with the standards of the American Association of State Highway and Transportation Officials (“AASHTO”).
- (4) An internal road that has no exit at one end shall terminate with an adequate turning area. Parking shall not be permitted within the turning area.
- (5) Safe-sight distance shall be provided at intersections.
- (6) An offset at an intersection or an intersection of more than two internal roads is prohibited.
- (7) The following types of internal roads shall have driving surfaces that are not less than the following widths:
 - a. One-way, no parking 16 feet
 - b. Two-way, no parking 21 feet
 - c. One-way, parallel parking, one side..... 23 feet
 - d. One-way, parallel parking, two sides..... 33 feet
 - e. Two-way, parallel parking, one side..... 31 feet
 - f. Two-way, parallel parking, two sides..... 41 feet
- (8) All entrances to communities that have 300 or more home sites shall be a minimum of 30 feet in width. The entrance shall consist of an ingress lane and a left and right egress turning lane at the point of intersection between a public road and the community’s internal road, and shall be constructed as follows:
 - a. All turning lanes shall be a minimum of ten feet in width and 60 feet in depth, measured from the edge of the pavement of the public road into the community.
 - b. The turning lane system shall be tapered into the community internal road system commencing at a minimum depth of 60 feet.

- c. The ingress and right egress turning lanes of the ingress and egress road shall connect to the public road with a curved line that has a minimum radius of 15 feet. The intersection of the public road and ingress and egress road shall not have squared corners.
- (9) An orderly street name system and unit numbering system shall be established by the community owner and the plan of such system approved by the Township Fire Department. Manufactured home space numbers shall be located uniformly on each space, housing unit or identification marker, throughout the community, and street names shall be adequately marked at all internal road intersections.
 - (10) Appropriate traffic control signs shall be provided on all internal roads, and a regulation stop sign shall be installed at the point of intersection with a public road, unless a traffic control device is provided.
- (b) **Driveways.**
- (1) Improved hard-surface driveways shall be provided on the site where necessary for convenient access to service entrances of buildings, and at delivery and collection points for fuel, refuse, and other materials.
 - (2) The minimum width of driveways shall be ten feet. The entrance to the driveway shall have the flare or radii, and horizontal alignment for safe and convenient ingress and egress.
- (c) **Resident Vehicle Parking.**
- (1) All home sites shall be provided with two parking spaces.
 - (2) If vehicle parking is provided on the home site, it shall be in compliance with both of the following provisions:
 - a. The parking space shall be constructed of concrete or bituminous asphalt and supported by a suitable subgrade in compliance with the standards of AASHTO.
 - b. The parking spaces may be either in tandem or side by side. If spaces are in tandem, then the width shall not be less than ten feet and the combined length shall not be less than 40 feet. If spaces are side by side, then the combined width of the two parking spaces shall not be less than 19 feet and the length shall be not less than 20 feet.
 - (3) If the two resident vehicle parking spaces required by this section are provided off the home site, then the parking spaces shall be within 30 feet of the home site and each parking space shall have a clear parking width of ten feet and a clear length of 20 feet.

- (4) If parking bays are provided for resident vehicle parking, they shall contain individual spaces that have a clear parking width of ten feet and a clear length of 20 feet.

(d) **Visitor Parking Facilities.**

- (1) A minimum of one parking space for every three home sites shall be provided for visitor parking.
- (2) Visitor parking shall be located within 500 feet of the home sites the parking is intended to serve, as measured along a road or sidewalk.
- (3) If parking bays are provided for visitor parking, they shall contain individual spaces that have a clear parking width of ten feet and a clear length of 20 feet.

(e) **Sidewalks.**

- (1) Sidewalks shall be constructed in the community and maintained for the safe and convenient movement from all home sites to principal destinations within the community and connection to the public sidewalks outside the community. Sidewalks shall be installed along one side of all internal collector roads within the community and to the public right-of-way and to all service facilities including but not limited to central laundry, central parking, and recreation areas. Sidewalks shall also be required along that portion of a community fronting along public thoroughfares.
- (2) All sidewalks shall be constructed in compliance with all of the following requirements:
 - a. Sidewalks shall have a minimum width of four feet and shall be constructed in compliance with Act 8 of the Public Acts of 1973, being Section 125.1361 *et seq.* of the Michigan Compiled Laws, an act which regulates sidewalks for handicappers.
 - b. All sidewalks shall meet the standards established in Rule 928 of the Manufactured Housing Commission Rules and AASHTO standards.
- (3) An individual sidewalk with a minimum width of three feet shall be constructed between at least one entrance, or patio, porch, or deck if provided, and the parking spaces on the home site or parking bay, whichever is provided, or the common sidewalk.

(f) **Lighting.**

- (1) Access points shall be lighted. If the public thoroughfare is lighted, then the illuminated level shall not be more than the average illumination level of the adjacent illuminated thoroughfare.
- (2) At all internal road intersections and designated pedestrian crosswalks, the minimum illumination shall not be less than .15 foot candle.
- (3) Internal roads, parking bays, and sidewalks shall be illuminated at not less than .05 foot candle.
- (4) If a community directory is provided, then it shall be illuminated at not less than 3.15 horizontal foot candles on any entry on the directory.

(g) **Utilities.**

- (1) All electrical, telephone, cable television, natural gas, and other utility services shall be installed underground and specifically designed in conformance with the Manufactured Housing Commission Rules. When separate meters are installed, each meter shall be located in a uniform manner on each housing site.
- (2) All manufactured housing sites and all other buildings within the community shall be connected to the water system of the Township, if it is available to the community, or to another state-approved system. The community water system shall conform to Parts 2-4 of the Michigan Department of Environmental Quality manufactured housing community standards.
- (3) Fire hydrants shall be installed in all communities for which public water systems are available and shall be in compliance with the requirements and provisions of the fire code. There shall be no more than 500 feet between hydrants as measured along adjacent roadways within the community.
- (4) All manufactured housing sites and all other buildings within the community shall be connected to the sanitary sewage system of the Township, if it is available to the community, or to another state-approved system. The community's sanitary sewage system shall conform to the Michigan Department of Environmental Quality manufactured housing community standards.
- (5) All storm sewers shall be constructed in accordance Parts 2-4 of the Michigan Department of Environmental Quality manufactured housing community standards. Additional requirements for a community may be established by the Kent County Drain Commissioner, pursuant to Section 11(3) of Public Act 96 of 1987, as amended.

(h) **Site Size, Spacing and Setback Requirements.**

(1) **Home Site Area.** The manufactured housing community shall be developed with sites averaging 5,500 square feet per manufactured housing unit. This 5,500 square feet average may be reduced by 20 percent provided that each individual site shall be equal to at least 4,400 square feet. For each square foot of land gained through the reduction of the average site below 5,500 square feet, at least an equal amount of land shall be dedicated as open space. This open space shall be in addition to that required under R 125.1946, Rule 946 and R 125.1941 and R 125.1944, Rules 941 and 944 of the Michigan Administrative Code, and Section 10.05(j) of this chapter.

(2) **Required Distances Between Homes and Other Structures.**

a. Home sites shall be arranged to allow for, and manufactured homes shall be located to comply with, all of the following minimum separation distances, as measured from the wall/support line or foundation line, whichever provides the greater distance:

(I) For a home not sited parallel to an internal road, 20 feet from any part of an attached structure of an adjacent home that is used for living purposes.

(II) For a home sited parallel to an internal road, 15 feet from any part of an attached structure of an adjacent home that is used for living purposes if the adjacent home is sited next to the home on the same internal road or an intersecting internal road.

(III) Ten feet from either of the following:

(aa) The parking space on an adjacent home site.

(bb) An attached or detached structure or accessory of an adjacent home that is not used for living purposes.

(IV) Fifty feet from permanent community-owned structures, such as either of the following:

(aa) Club houses.

(bb) Maintenance and storage facilities.

(V) One hundred feet from a baseball or softball field.

(VI) Twenty five feet from the fence of a swimming pool.

- b. Attached or detached structures or accessories that are not used for living space shall be a minimum of ten feet from an adjacent home or its adjacent attached or detached structures.
- c. Any part of an accessory structure, such as steps, porches, supported or unsupported awnings, decks, carports or garages, or similar structures shall be set back the following minimum distances:
 - (I) Ten feet from the edge of an internal road.
 - (II) Seven feet from a parking bay off a home site.
 - (III) Seven feet from a common sidewalk.
 - (IV) Twenty five feet from a natural or man-made lake or waterway.
- d. A carport shall be in compliance with both of the following setbacks if it is completely open, at a minimum, on the two long sides and the entrance side:
 - (I) Support pillars that are installed adjacent to the edge of an internal road shall be set back four feet or more from the edge of the internal road or two feet or more from the edge of a sidewalk.
 - (II) Roof overhangs shall be set back two feet or more from the edge of the internal road.
- e. Steps and their attachments shall not encroach into parking areas more than three and one-half feet.

(3) Setbacks From Property Boundary Lines.

- a. Homes, permanent buildings and facilities, and other structures shall not be located closer than 20 feet from the property boundary line of the community.
- b. If homes, permanent buildings and facilities, and other structures abut a public right-of-way, then they shall not be located closer than 50 feet from the boundary line. If the boundary line runs through the center of the public road, then the 50 feet shall be measured from the road right-of-way line.

(i) **Screening/Landscaping.** Manufactured housing communities shall be landscaped as follows:

- (1) If a manufactured housing community abuts an existing residential development, the community shall be required to provide screening along the boundary abutting the residential development.
- (2) If the community abuts a non-residential development, it need not provide screening.
- (3) In all cases, however, a community shall provide screening along the boundary abutting a public right-of-way.
- (4) The landscaping shall consist of evergreen trees or shrubs at least three feet in height which are spaced so they provide a continuous screen at maturity. Alternative screening devices may be utilized if they conceal the manufactured housing community as effectively as the required landscaping described above.
- (5) Exposed ground surfaces in all parts of the community shall be paved or covered with ornamental stone or protected with grass, trees, or shrubs that are capable of preventing soil erosion. The ground surface and all parts of the community shall be graded and equipped to drain all surface water in a safe and efficient manner.

(j) **Open Space Requirements.**

- (1) A community that contains 50 or more sites shall have not less than 2 percent of the community's gross acreage dedicated to designated open space, but in no case less than 25,000 square feet. At least one-half of the required open space, up to two acres, shall be dedicated to community recreation uses, such as, but not limited to, picnic areas, athletic fields, playgrounds, walking trails, shuffleboard courts and lawn game areas.
- (2) Required setbacks may not be used in the calculation of open space area.

(k) **Site Constructed Buildings and Dwellings.**

- (1) Site constructed buildings within the community such as community buildings or laundries, but not including manufactured homes and their accessory storage buildings, shall be reviewed by the Township at the time of submission for a building permit, unless approved as part of the original plan for the community.
- (2) The maximum height of any community or similar building shall not exceed 35 feet, or two stories in height, whichever is less. Storage or service buildings shall not exceed 15 feet, or one story in height.

- (3) Community or service buildings shall not be located adjacent to an adjoining parcel that is either zoned or developed for single family residential purposes.
- (4) Site-built single family dwellings may be located in a community as follows:
 - a. One single family dwelling may be permitted for the exclusive use of the community owner or manager in a community of 30 acres or less.
 - b. Two single family dwellings may be permitted for the exclusive use of the community owner, manager, or caretaker in a community in excess of 30 acres.
 - c. Any such single family dwellings permitted under this section shall comply in all respects with the requirements of single family dwellings in the R-1 Single Family Residential District.
- (l) **Signs.** There shall be a maximum of one sign per road frontage with an entrance which shall bear only the name of the community. Such a sign shall be located from the street a distance equal to the setbacks established in Rule 944(2) of the Manufactured Housing Commission Rules. The sign may be lighted, provided that the source of the light is not visible and is not of the flashing or intermittent type. One sign, not exceeding 32 square feet in area shall be permitted for the first entrance provided to the community. For multiple entrances, a 16 square foot sign shall be permitted at each entrance after the first. Signs may be double-faced, but each side of the sign shall have identical copy and be flush with the other side.
- (m) **RV Storage.** If boats, boat trailers and utility trailers are permitted to be parked within the manufactured housing community, adequate parking spaces for such vehicles in a central or collective parking area shall be provided. This area shall be in addition to the automobile parking requirements of this Ordinance and shall be adequately locked, fenced and permanently buffered.
- (n) **Compliance with Regulations.** The design, layout, construction and use of a manufactured housing community shall in all other respects comply with the regulations on the design, construction and use of manufactured housing communities, the sale and leasing of manufactured housing lots and all other aspects of the construction and use of manufactured housing communities, as set forth in the rules of the Michigan Manufactured Housing Commission, as amended from time to time.

Section 10.06 Manufactured Homes Within Manufactured Housing Communities.

- (a) **Home Size.** A manufactured home within a community shall not contain less than 760 square feet of area, as measured by its outside dimensions, nor have an outside width of less than 13 feet.
- (b) **Installation.** The installation of manufactured housing on each site within the community shall conform with the requirements of Rule 602 and Rule 602A of the Manufactured Housing Commission Rules. All utility connections to homes within the community shall be performed in accordance with the requirements of Rule 603 of the Manufactured Housing Commission Rules.
- (c) Skirting shall be installed around all manufactured housing units and meet all of the following requirements:
 - (1) Such skirting shall be compatible aesthetically with the appearance and construction of the manufactured housing unit. All skirting shall be installed prior to the issuance of a certificate of occupancy. In the event that such installation is delayed due to weather, or for other similar reasons, a temporary certificate of occupancy may be issued for a period not to exceed 90 days. All skirting shall meet the requirements established by the rules of the Michigan Manufactured Housing Commission.
 - (2) Individual manufactured housing units shall be skirted around the perimeter of the manufactured housing unit to conceal the underbody from view. Skirting shall be vented in accordance with the requirements of Rule 604 of the Manufactured Housing Commission Rules. All skirting shall be manufactured of fire resistant material and certified as such by the manufacturer. Skirting shall be installed in a manner so as to resist damage under normal weather conditions and shall be properly maintained.
- (d) **Storage of Personal Property.**
 - (1) Except as otherwise noted in this Ordinance, no personal property, including tires, shall be stored outside or under any mobile home, or within carports which are open on any side.
 - (2) Bicycles and motorcycles may be parked in carports. Seasonal outdoor storage of outdoor cooking grills is permitted so long as they are kept on either a finished wooden deck, a concrete or bituminous asphalt patio or equivalent type of surface associated with the home.
 - (3) Storage sheds with a maximum area of 144 square feet may be placed upon any individual mobile home site for the storage of personal property.
- (e) Towing mechanisms shall be removed from all homes at the time of installation and stored so as not to be visible from the exterior of the community. Towing

mechanisms, including axles, may, however, be stored under manufactured homes within a community.

- (f) A manufactured home shall be used only as a single family dwelling. This provision shall not be construed to preclude the siting of model manufactured homes on licensed sites in a manufactured housing community.
- (g) No manufactured home shall be occupied for dwelling purposes unless it is placed on a site or lot and connected to water, sanitary sewer, electrical, and other facilities as may be necessary, prior to building official inspection and approval.
- (h) New or pre-owned manufactured homes, which are to remain on-site in the manufactured housing community, may be sold by the resident, owner or a licensed dealer or broker, provided that manufactured housing development management permits the sale.
- (i) The owner or operator of any community shall be responsible for all street maintenance within the confines of the community and shall be responsible for all snow removal within the confines of the community and shall be responsible for picking up trash and garbage within the confines of the community.
- (j) Swimming pools, if provided, shall be in compliance with Act 368 of the Public Acts of 1978, as amended, and the rules promulgated thereunder.
- (k) Individual fuel oil, liquid petroleum, or other fuel tanks or combustible personal property shall not be permitted to be stored in or under any home.
- (l) Each home site shall be provided with approved garbage containers that meet the requirements of the Manufactured Housing Commission. The containers shall be kept in sanitary conditions at all times. It shall be the responsibility of the community operator to ensure that all garbage containers do not overflow and to ensure that all areas within the community are maintained free from any trash or other discarded materials.
- (m) Every community shall be equipped with fire extinguishment equipment in good working order, with type, size and number so located as to be in compliance with Rule 702A of the Manufactured Housing Commission Rules. Each fire extinguisher shall be periodically examined and kept at all times in a useable condition in compliance with the regulations of the State Police Fire Marshal Division.

Section 10.07 Review and Approval of Preliminary Manufactured Housing Community Plans.

- (a) **Review.** Prior to the establishment of a new manufactured housing community, an expansion of a manufactured housing community, or construction of any building within the community not previously approved, a plan shall be presented to the Planning Commission for its review and approval.

- (b) **Application.** All plans submitted to the Planning Commission for review under this section shall contain the following information:
- (1) The date, north arrow and scale. The scale shall not be less than 1"=50' for property under three acres and at least 1"=100' for those three acres or more.
 - (2) All site and/or property lines are to be shown in dimension.
 - (3) The location and height of all existing and proposed structures on and within the subject property and existing within 100 feet of the subject property.
 - (4) The location and dimensions of all existing and proposed internal drives, sidewalks, curb openings, signs, exterior lighting, parking areas (showing dimensions of a typical parking space), unloading areas, community buildings, open space and recreation areas.
 - (5) The location and the pavement and right-of-way width of all abutting roads, streets, or alleys.
 - (6) The name and firm address of the professional civil engineering, registered landscape architect, landscaping firm, or architectural firms responsible for the preparation of the site plan.
 - (7) The name and address of the property owner and developer.
 - (8) The location of all rubbish receptacles and landscaping and the location, height, and type of fences and walls.
 - (9) Location of all fire hydrants, if applicable.
 - (10) The number of manufactured housing sites proposed.
 - (11) The submittal shall contain a narrative of the arrangements to be made for water supply and sewage disposal service, including approximate capacity, source of water supply, discharge points for sewage disposal, and description of storm water management facilities.
 - (12) Utility and other easements.
 - (13) Reserved.
 - (14) Existing wetlands.
 - (15) Proposed sign locations.

- (16) All required setbacks and separations. Provided, however, that detailed construction plans shall not be required to be submitted to the Township.
- (c) **Fee.** Fees for the review of a manufactured housing community plan shall be established by resolution of the Township Board.
- (d) **Decision.**
 - (1) The plan shall be reviewed by the Planning Commission for compliance with the design standards for manufactured housing communities contained in this chapter, and the regulations of the State Manufactured Housing Commission. If it is determined that the manufactured housing community complies with the Ordinance and regulations, it shall be approved.
 - (2) The plan shall be approved, approved with conditions, or denied within 60 days after received by the Township, unless the applicant consents to allow a longer period of review.

CHAPTER 11

RESIDENTIAL PLANNED UNIT DEVELOPMENT

Section 11.01 Description and Purpose.

- (a) This chapter is intended to promote more creative, economical and efficient use of the land; to help preserve open space, natural areas and wildlife habitat; and to offer an alternative to the design of more conventional developments.
- (b) The provisions of this chapter are not intended as a means for circumventing the zoning ordinance or the land use planning upon which it has been based. To that end, provisions of this chapter are intended to result in land use development and densities substantially consistent with the Township Master Plan, with modifications made in accordance with standards specified in this chapter.
- (c) This chapter is also intended to provide a mechanism for density bonuses, so as to encourage creative and innovative design which preserves natural features or the appearance of open space and rural character.

Section 11.02 Authorization. A Planned Unit Development (“PUD”) shall be approved by amendment to the zoning map, with an accompanying ordinance specifying the terms and conditions of approval of the PUD. Approval under this chapter, including all aspects of the final plan and conditions imposed shall be considered as part of the zoning ordinance, although it need not be incorporated into the codified ordinances of general application. Violation of any provision of a planned unit development ordinance shall in all respects be considered a violation of the zoning ordinance.

Section 11.03 Eligibility for PUD Rezoning.

- (a) Lands for which a PUD application is made must be under single ownership or under common control, and all parties in interest shall join in the application. The Township may require proof of such ownership or joint control.
- (b) The lands proposed for PUD rezoning shall contain a minimum of five contiguous acres.
- (c) The uses permitted in the PUD district are single family dwellings, two family dwellings, multiple family dwellings, or any of them in combination, together with accessory uses and structures, but such residential uses shall be limited to those specified in the zoning district in which the lands are located at the time of application for PUD rezoning.
- (d) The lands proposed for rezoning to the PUD district shall be located, at the time of application, within the AG Agricultural District, the R-R Rural Residential District, the R-1 Single Family Residential District, the LR Lake Residential District, the R-2 Two Family and Multiple Family Residential District or the R-3

Manufactured Housing Community District. (The zoning district at the time of the application is referred to as the “underlying zoning district” in this chapter.)

Section 11.04 Review Procedures.

- (a) **Optional Preapplication Conference.** Before submitting an application for a PUD, the applicant may meet with the Planning Commission to submit information regarding the proposed PUD and to confer with the Planning Commission about the proposed application and the PUD.
- (b) **Preliminary Development Plan.**
 - (1) An applicant for PUD rezoning shall submit a site plan of the development which contains the information required for site plans according to Chapter 17 of this Ordinance, and which contains the following additional information:
 - a. A narrative describing the PUD.
 - b. Proposed restrictive covenants for the development.
 - c. Wooded areas, wetlands, ponds, streams or other bodies of water.
 - d. Proposed building envelopes and areas for drain fields and set aside drain fields.
 - e. Description of means proposed to dispose of sanitary sewage and supply potable water.
 - f. Areas proposed to be left in a natural state, and areas proposed for open space uses.
 - (2) If required by the Planning Commission, the preliminary development plan shall include additional information reasonably necessary to determine and consider the environmental impact of the development, impact on services to be provided by governmental units and school districts and traffic. The Planning Commission may, in addition, request that the applicant obtain comments from the County Health Department, County Road Commission, County Drain Commissioner, Department of Natural Resources, Department of Environmental Quality, and other governmental units regarding impacts on matters within their jurisdiction.
- (c) **Review of Preliminary Development Plan.** The Planning Commission shall review the preliminary development plan and make recommendations to the applicant regarding the PUD, together with any recommended change or modification thereof. The recommendations shall be based upon consideration of the requirements of this Ordinance and, in particular, the requirements of this chapter.

- (d) **Advisory Public Hearing.** In the course of its consideration of the preliminary development plan, the Planning Commission may, but is not required to, convene an advisory public hearing to receive public comments concerning the preliminary development plan. Informal notice of such advisory hearing shall be given by one publication and by mail to all persons to whom any real property is assessed within 300 feet of the lands included in the PUD, not less than seven days prior to the date of the advisory public hearing. Failure to give notice of such an advisory public hearing shall not affect the validity of the proceedings.
- (e) **Final Development Plan.** After receiving the recommendations of the Planning Commission concerning the preliminary development plan, the applicant shall submit a final development plan to the Township, which contains the information required for a preliminary development plan, and which addresses other matters requested by the Planning Commission. Copies of the final development plan and an application for PUD rezoning, shall be forwarded to the Planning Commission. The plan shall also state the projected time for completion of the PUD, any proposed phasing of the PUD, and the projected time for completion of each phase.
- (f) **Public Hearing on Final Development Plan.** The Planning Commission shall hold a public hearing on the final development plan and the application for rezoning. Notice of the hearing shall be given in the manner required by Section 22.07 of this Ordinance.
- (g) **Recommendation by Planning Commission.** After public hearing, the Planning Commission shall make recommendations to the Township Board regarding the final development plan. The Planning Commission may recommend in favor of rezoning the lands in accordance with the final development plan; it may recommend against rezoning of the lands in accordance with the final development plan; or it may recommend such rezoning only if certain changes or modifications in the PUD are made or if certain specific conditions are imposed.
- (h) **Consideration by Township Board.** The Township Board shall review the final development board and the recommendations submitted by the Planning Commission. The Township Board shall determine whether the final development plan complies with the standards, conditions and requirements of this Ordinance and, in addition, shall determine whether the proposed project promotes the purposes of this chapter. Upon a determination of the project and of each such standards, conditions and requirements, the Township Board may approve the final development plan and grant the rezoning request, or deny such plan and request, or approve with conditions.
- (i) **Conditions of Approval.** The Township Board may impose reasonable conditions upon approval to protect the environment and conserve natural resources and energy, to ensure compatibility with adjacent use of lands, and promote the use of land in a socially and economically desirable manner. Conditions imposed shall meet all of the following requirements:

- (1) Shall be designed to protect natural resources, the health, safety and welfare of those who will use the proposed project, residence and landowners immediately adjacent to the project, and the community as a whole.
- (2) Shall be related to the valid exercise of the police power, and the purposes of which are affected by the proposed project.
- (3) Shall be necessary to meet the intended purpose of this Ordinance, be related to the standards established in the Ordinance for the proposed PUD under consideration, and be necessary to ensure compliance with those standards.

Section 11.05 Building Density in Planned Unit Development Clustering of Buildings.

- (a) The building density in a PUD shall be as provided in this section.
- (b) The building density in a PUD as to which the underlying zoning district is the AG District, the R-R District, the R-1 District or the LR District, shall be as specified in the underlying zoning district, except where a greater density is permitted under Section 11.06.
- (c) The building density in a PUD consisting of multiple family dwellings, where the underlying zoning district is the R-2 District or the R-3 District, shall be as determined by the Planning Commission and Township Board in the PUD ordinance. The building density for a PUD of single family dwellings and/or two family dwellings, where the underlying zoning district is the R-2 District, shall be as specified in the R-2 District.
- (d) A planned unit development may, if approved by the Planning Commission and Township Board, consist of clustered housing, including single family dwellings, two family dwellings and multiple family dwellings, or any of them in any combination. Such clustered option provides for the creation of building lots which do not necessarily comply with the minimum standards of the underlying district. The conditions for approval of a clustered planned unit development are the following:
 - (1) The lands proposed for PUD rezoning must contain significant natural features or must be important in maintaining the rural character of the Township.
 - (2) The PUD must be designed to have the minimal impact possible on the natural features of the site and the surrounding area.
 - (3) The inclusion of a significant amount of open space area within the PUD may be required. Such area shall be maintained in an undeveloped state, in perpetuity, under the terms of recorded restrictive covenants or other recorded instruments.

- (4) The project must substantially comply with all applicable design standards of Section 11.07 hereof.
- (e) Section 11.06 of this Ordinance, pertaining to bonus density, shall apply only to single family dwellings in a PUD. Bonus density shall not be available for two family dwellings or multiple family dwellings.

Section 11.06 Bonus Density for Certain Planned Unit Development.

- (a) If approved by the Planning Commission and Township Board under the terms of this section, the rezoning of lands to a PUD district consisting of single family dwellings may include, in addition to clustering of buildings as stated in Section 11.05, an increase in overall building density in excess of that which would be permitted in the underlying zoning district, as follows:
 - (1) For developments which include five or more single family dwelling sites, approval may be given for the creation of one additional building site for the first five dwellings plus one additional building site for each ten dwellings in excess of five. (For example, up to one additional dwelling for qualifying developments with five to 15 dwellings, two for developments with 16-25 dwellings, etc.)
 - (2) Bonus density under the terms of this section shall be available only for single family dwellings in a PUD, but shall not be available for two family dwellings or multiple family dwellings. For PUDs containing a mix of housing types, bonus density shall be available only for the single family dwelling portion of the PUD.
- (b) In order for a single family dwelling PUD, or portion thereof, to qualify for density bonus, the PUD, or the single family dwelling portion thereof, shall satisfy the following standards:
 - (1) The lands proposed for PUD rezoning must contain significant natural features or must be important in maintaining the rural character of the Township.
 - (2) The PUD must be designed to have the minimal impact possible on the natural features of the site and the surrounding area.
 - (3) Additional amenities may be required to be included in the PUD. Such amenities may include recreational facilities such as playground areas, athletic fields, walking paths, a community building or similar recreational facilities or areas.
 - (4) The providing of a community sanitary sewer system or a community water supply system may qualify as an additional amenity for purposes of determining eligibility for bonus density.

- (5) The PUD shall substantially comply with all applicable design standards of Section 11.07 hereof.

Section 11.07 General Design Standards. The following design and development standards shall apply to residential planned unit developments:

- (a) In the rezoning of lands to the PUD district, the regulations of the underlying zoning district shall apply, provided, however, that in their discretion, the Planning Commission and Township Board may approve different regulations, and such regulations may vary among different lots or areas in the PUD.
- (b) Areas in which natural vegetation and terrain are left undisturbed shall be provided along public roads and adjacent property lines, and shall be of sufficient width so as to screen buildings from adjacent roadways and properties.
- (c) Where reasonably practicable, home sites shall be situated toward the interior of the PUD, or shall be so located in relation to trees and other natural features so as to reasonably buffer dwellings from the view from public streets or other lands. Such buffering of dwellings need not obscure such dwellings entirely, but shall help to avoid such dwellings constituting the predominant view along public streets.
- (d) Building envelopes shall not be located on top of prominent hilltops, ridges or steep slopes, or in proximity to wetlands or other environmentally sensitive areas.
- (e) The entrance or entrances to the development shall be no wider than necessary to accommodate any necessary acceleration lanes and provide adequate sight distance. Prominent boulevards, landscaping, planters, fences and other amenities designed to call undue attention to the development shall not be permitted.
- (f) The location of roads, drainage structures and building sites, driveway locations, drain fields and drain field locations shall be designed to minimize the clearing of desirable vegetation and the alteration of existing slopes and drainage patterns.
- (g) The PUD shall be designed and constructed so as to avoid serious adverse effects of storm water runoff from roads, driveways, other improvements and other aspects of the PUD. Appropriate detention and/or retention basins, ditching, storm sewers and other means shall be provided so as to fully control and properly manage storm water runoff, so as to avoid adverse effects resulting from erosion of lands both during construction and thereafter.
- (h) Roads shall be located away from areas of steep slopes.
- (i) If the roads within the PUD are to be private roads, they shall comply with the requirements of this Ordinance pertaining to private roads; provided, however, that the Township Board may, following consultation with the Township fire chief and other public safety officials as appropriate, allow a reduction in the

minimum right-of-way and roadbed width requirements for all or a portion of a road, so as to minimize removal of vegetation or alteration of natural slopes.

- (j) There may be a sign identifying the name of the development, located near the main entrance thereof, together with such other sign or signs as may be approved by the Planning Commission and Township Board. All such signs shall comply with applicable provisions of Chapter 18 of this Ordinance.
- (k) Provision shall be made, by recorded restrictive covenant, master deed or other appropriate legal means, so that areas of the PUD designated as open space and considered in determining overall density of the project shall remain as such. Areas counted as open space for one development shall not be counted as open space for a different development.
- (l) Areas proposed for open space may be used for the growing of crops, commercial stables, golf courses or other facilities for outdoor recreational activities. If a non-agricultural open space area is to be made available for use by persons other than the residents of the PUD and their guests, then the Township may require that only a specified portion of the open space area, up to one-half thereof, may be included in the calculation of overall density of the PUD.
- (m) Provisions for shared driveways by individual units shall be made where appropriate to minimize removal of vegetation or alteration of existing slopes.
- (n) All units within the PUD shall be connected to public water and sanitary sewer facilities, if available according to Township ordinances. If public water and sanitary sewer facilities are not available, the PUD shall be served by a private community system (designed for connection to a public system when and if a public system is made available). Water supply and sanitary sewer facilities shall be approved by the county health department and the Township in accordance with applicable standards.
- (o) In addition to no-disturbance zones along the perimeter of the development, provision shall be made for preservation of existing desirable vegetation within building sites, except as necessary for the construction of buildings, drain fields, and driveways.
- (p) In order to provide variety in the appearance of multiple family dwellings, and to encourage multiple family dwellings which are in keeping with the rural character of the Township, multiple family buildings in a PUD shall be designed and constructed to avoid excessive length and box-like appearance and to have varied architectural features.

Section 11.08 Amendments in an Approved PUD.

- (a) An approved final PUD development plan, and any terms and conditions included in the final PUD plan, shall not be changed or revised except upon the approval of

the Planning Commission and Township Board, except as stated in this section concerning minor changes.

- (b) A minor change in an approved PUD may be approved by the Planning Commission, at a public meeting, but without the need for a public hearing or a special public notice, if the change does not substantially alter the basic design or modify the conditions included in the PUD, such minor changes being the following:
 - (1) Reduction of the size of any building and/or sign.
 - (2) Changes in the placement of buildings and/or signs by not more than a minor amount, as determined by the Planning Commission.
 - (3) Changes in floor plans which do not alter the nature of the use.
 - (4) Changes in building materials to a higher quality.
 - (5) Internal rearrangement of a vehicle parking area which does not affect the number of parking spaces or change access locations or design.
 - (6) Changes required by the Township for reasons of safety.
 - (7) Changes which will preserve the natural features of the site without changing the basic site layout or site design.
 - (8) Other similar changes of a minor nature proposed to be made in the configuration, design, layout or topography of the PUD and which are determined by the Planning Commission to be not material or significant in relation to the entire site and which the Planning Commission determines would not have any significant adverse effect on adjacent or nearby lands or the public health or safety.

Section 11.09 Performance Guarantees.

- (a) The Township Board, after recommendation by the Planning Commission, may require reasonable performance guarantees, consisting of a performance bond, letter of credit or other satisfactory written assurance or guarantee.
- (b) The amount of the performance bond, letter of credit or other guarantee shall be determined by the Township Board, after Planning Commission recommendation. Such guarantees shall be conditioned upon timely and faithful compliance with all of the terms, provisions and requirements of the PUD, and the construction and completion of all improvements therein.
- (c) In its discretion, the Township Board, upon recommendation by the Planning Commission, may rebate or refund a proportionate share of the amount specified

in a performance bond, letter of credit or other written assurance, based upon the percent or other portion of improvements that have been completed.

Section 11.10 Time Limitation on PUD Development.

- (a) A PUD shall be under construction and shall proceed diligently toward completion within one year after the date of approval of the final PUD plan and adoption of the PUD ordinance by the Township Board. If this requirement is not complied with, the Planning Commission may in its discretion grant an extension not exceeding one year, if the PUD applicant submits reasonable evidence to the effect that unforeseen difficulties or special circumstances have been encountered, causing delay in the commencement of the PUD.
- (b) If a PUD has not been commenced within the above-stated period of time, or within any authorized extension thereof, any building permits or other approvals issued for the PUD or any part thereof shall be of no further effect. In such circumstances, the Planning Commission and Township Board may, in their discretion, commence and complete proceedings for the rezoning of the lands to some other zoning district.

CHAPTER 11A

OPEN SPACE PRESERVATION

Section 11A.01. Purpose. Act No. 177 of the Public Acts of Michigan of 2001 (“Act 177”) requires that zoned townships having a population of 1,800 or more and having undeveloped land zoned for residential development must adopt provisions in their zoning ordinances known as “open space preservation” provisions, which permit land satisfying specified criteria to be developed, at the option of the landowner, with the same number of dwellings on a portion of the land specified in the zoning ordinance, but not more than 50 percent, that, as determined by the township, could otherwise be developed, under existing ordinances, laws and rules, on the entire land area. The purpose of this chapter is to adopt open space preservation provisions consistent with the requirements of Act 177.

Section 11A.02. Qualifying Conditions.

- (a) Land may be developed under the provisions of this chapter only if each of the following conditions is satisfied:
 - (1) The land shall be zoned in the AG, R-R, R-1, LR or R-2 Zoning District, or other zoning district permitting residential development, but specifically excluding the R-3 District;
 - (2) The zoning district in which the land is located shall permit development at a density equivalent to two or fewer dwelling units per acre, if the land is not served by a public sewer system; or shall permit development at a density equivalent to three or fewer dwelling units per acre, if the land is served by a public sanitary sewer system;
 - (3) The development of land under this chapter shall not depend upon the extension of a public sanitary sewer or a public water supply system to the land, unless the development of the land without the exercise of the clustering option provided by this chapter would also depend on such extension; and
 - (4) The clustering option provided pursuant to this chapter shall not have previously been exercised with respect to the same land.
- (b) If all of the preceding conditions are satisfied, the land may be developed, at the option of the landowner, in accordance with the provisions of this chapter.

Section 11A.03. Permitted Uses. Only those land uses permitted by the zoning district in which the land is located shall be permitted on land developed or used pursuant to the provisions of this chapter.

Section 11A.04. Application and Review Procedure.

- (a) The application requirements and review procedures for land proposed to be developed pursuant to the provisions of this chapter shall be those stated in Chapter 17 of this Ordinance, governing site plans, except as otherwise provided in this section. If the cluster option permitted by this chapter is proposed as a platted subdivision or a site condominium development, the applicant must also submit all information required under the Land Division Act and Chapter 16 of this Ordinance as applicable.
- (b) In addition to the application materials required by Chapter 17 of this Ordinance, an application for the development of land under the provisions of this chapter shall include the following:
 - (1) An existing zoning plan prepared for the purpose of demonstrating the number of dwelling units that could be developed on the land under its existing zoning if the clustering option provided by this chapter were not exercised. The existing zoning plan may be conceptual in nature but shall include at least the following information:
 - (i) Date, north arrow and scale, which shall not be more than 1"=100' and, in all cases, the scale shall be the same as that utilized for the site plan illustrating the proposed development using the clustering option permitted by this chapter.
 - (ii) Location of streets and driveways.
 - (iii) Location of all lots, illustrating lot area and width of each lot to demonstrate compliance with the minimum requirements of the applicable zoning district.
 - (iv) Location of all utilities that would be necessary to serve a development under the existing zoning plan and which would not be located within any public road right-of-way or private street easement, or on buildable lots. Such utilities include, but are not limited to, storm water retention or detention basins, community sewage treatment systems and community water supply facilities.
 - (v) If development under the existing zoning plan would require the use of septic tanks and drain fields, the existing zoning plan shall illustrate the location of all septic tanks and drain fields. The applicant shall submit proof that the proposed septic tank and drain field location for each lot would be approved, or has been approved, by the Kent County Health Department.
 - (vi) The existing zoning plan shall illustrate all unbuildable land, which shall include slopes of 20 percent or greater, regulated and unregulated wetlands, public utility easements, floodplains, and

other similar features which limit or prevent construction of buildings or roads. Each lot shown on the existing zoning plan shall contain at least 15,000 square feet of buildable area.

- (2) A copy of the conservation easement, plat dedication, restrictive covenant, or other legal instrument that would run with the land, and that would have the legal effect of preserving in perpetuity the open space required by this chapter in an undeveloped state. Such legal instrument shall be reviewed by the Township attorney prior to recording, and shall be subject to the approval of the attorney, consistent with the terms of this chapter. The legal instrument shall:
 - (i) Indicate the proposed permitted use(s) of the undeveloped open space.
 - (ii) Require that the open space be maintained in perpetuity in an undeveloped condition, without buildings, structures or other improvements, except such drainage improvements, utility lines, riding trails, hiking trails, picnic areas, park or playground equipment, agricultural structures or similar improvements that are approved by the Planning Commission.
 - (iii) Require that the undeveloped open space be maintained by parties who have an ownership interest in the undeveloped open space.
 - (iv) Provide standards for scheduled maintenance of the undeveloped open space, including necessary pruning and harvesting of trees and new plantings.
- (3) The site plan for the clustering option permitted by this chapter shall include the following minimum information, in addition to that required by Chapter 17 of this Ordinance:
 - (i) Date, north arrow and scale which shall not be more than 1"=100' and, in all cases, the scale shall be the same as that utilized for the existing zoning plan.
 - (ii) The site plan shall clearly illustrate the portions of the land that are proposed to remain in a perpetually undeveloped state and the portions of the land that will be used for clustered development.
 - (iii) The site plan shall indicate the total number of acres of land that are proposed to remain in a perpetually undeveloped state, the total number of acres of land that are proposed to be used for clustered development, and the percentage of each, as compared to the total site acreage.

- (iv) The site plan shall illustrate the location of all proposed lots and proposed building envelopes and shall indicate the lot area and width of each lot, and the proposed front, side and rear yard building setbacks. The number of proposed dwelling lots on the site plan shall not exceed the number of lots on the existing zoning plan, as approved by the Planning Commission, and reduced to accommodate non-dwelling structures, if necessary, as described in Section 11A.05(l).
 - (v) The site plan shall illustrate the location and type of all proposed structures or improvements that are not dwellings.
 - (vi) If the clustered development will include septic tanks and drain fields, the site plan shall illustrate the location of all septic tanks and drain fields. The applicant shall submit proof that the proposed septic tank and drain field location for each lot has been approved by the Kent County Health Department.
- (4) If the development is to be served by public streets, proof that the Kent County Road Commission has approved the design, layout and construction of the streets.
- (c) **Determination of Number of Lots by Planning Commission.** When reviewing an application submitted under the terms of this chapter, the Planning Commission shall determine whether the existing zoning plan accurately reflects the number of dwelling units that could be developed on the land under its existing zoning if the clustering option provided by this chapter were not exercised. If the Planning Commission determines that the number of dwellings illustrated on the existing zoning plan exceeds the number of dwellings that could be permitted on the land if it were developed under its existing zoning, if the clustering option provided by this chapter were not exercised, the applicant shall submit a revised site plan for the clustering option reflecting the permitted number of dwellings, as determined by the Planning Commission.
- (d) If a site plan satisfies all requirements of Section 17.04 of this Ordinance, all requirements of this chapter and all conditions of approval imposed by the Planning Commission pursuant to Section 17.05 of this Ordinance, the Planning Commission shall approve the site plan. If the cluster option permitted by this chapter is proposed as a platted subdivision or a site condominium development, the applicant shall also demonstrate compliance with all requirements of the Land Division Act and Chapter 16 of this Ordinance before the Planning Commission may approve the development.

Section 11A.05. Development Requirements.

- (a) **Required Open Space.** At least 50 percent, but no more than 60 percent of the land proposed for development under the provisions of this chapter shall remain

in a perpetually undeveloped state (i.e., “open space”) by means of a conservation easement, plat dedication, restrictive covenant, or other legal instrument that runs with the land, as approved by the Township attorney. The following areas shall not constitute open space:

- (1) The area within all public street rights-of-way.
 - (2) The area within all private street easements.
 - (3) Any easement for overhead utility lines, unless adjacent to open space.
 - (4) The area within a platted lot or site condominium unit or metes and bounds parcel occupied by a structure not permitted to be located in open space.
 - (5) Off street parking and/or loading areas.
 - (6) Detention and retention ponds.
 - (7) Community drain fields.
 - (8) Fifty percent of the area of wetlands, creeks, streams, ponds, lakes or other bodies of water.
 - (9) Fifty percent of the area of floodplains and steep slopes (20 percent or over).
- (b) **Standards for Open Space.** The following standards shall apply to the open space required pursuant to this chapter:
- (1) The open space shall not include a golf course.
 - (2) The open space may include a recreational trail, picnic area, children’s play area, greenway, linear park, an agricultural use or other use which, as determined by the Planning Commission, is substantially similar to these uses.
 - (3) The open space shall be available for all residents of the development, subject to reasonable rules and regulations. The open space may be, but is not required to be, dedicated to the use of the public.
 - (4) If the land contains a lake, stream or other body of water, the Planning Commission may require that a portion of the open space abut the body of water. Access to and the use of any such body of water shall be subject to Sections 4.27 and 4.28 of this Ordinance, entitled “Access to Lakes and Streams” and “Docks,” respectively.

- (5) A portion of the open space shall be located along the public street frontage abutting the land. The depth of this area shall be at least 50 feet, not including public right-of-way, and this area shall be left in its natural condition or be landscaped to help reduce the view of houses on the land from the adjacent roadway and to preserve the rural view.
 - (6) A portion of the open space shall be reasonably useable by the residents of the land for passive recreational uses such as hiking or picnicking.
 - (7) Open space shall be located so as to be reasonably accessible to the residents of the clustered development. Safe and convenient pedestrian access points to the open space from the interior of the clustered development shall be provided.
 - (8) Open space shall be located so as to preserve significant natural resources, natural features, scenic or wooded conditions, bodies of water, wetlands or agricultural land. If these type of land features are not present on the land, then the open space shall be centrally located, along the road frontage.
 - (9) Where feasible, open space shall to be linked with any adjacent open spaces, public parks, bicycle paths or pedestrian paths.
- (c) **Use of Open Space.** All dwelling units and other structures and improvements shall be located outside that portion of the land designated as open space. However, the Planning Commission, at its discretion, may permit structures or improvements to be located in the open space if the structures and/or improvements would be consistent with the designated purpose of the open space. By way of example only, park or playground equipment could be permitted on open space designated for recreational use, or agricultural structures could be permitted on open space designated for agricultural use.
- (d) **Compliance with Zoning District.** The development of land under this chapter shall comply with all requirements of this Ordinance applicable to the zoning district in which the land is located, except those setback and yard size requirements that must be adjusted to allow the clustering option permitted under this chapter.
- (e) **General Design Standards.**
- (1) All lots within a clustered development shall front and be provided access by an interior public or private street. No individual lot shall have direct access to any other street other than those constructed to serve the clustered development.
 - (2) Areas in which natural vegetation and terrain is left undisturbed shall be provided along existing public roads and adjacent property lines of sufficient width to screen buildings from adjacent roadways and properties.

- (3) Home sites shall be located toward the interior of the development, or shall be located behind existing natural features so as to screen dwellings from existing public roads and adjacent, properties.
 - (4) The entrance or entrances to the development shall be no wider than necessary to accommodate any necessary acceleration lanes and provide adequate sight distance. Boulevards, landscaping, planters, fences and other amenities designed to call attention to the development are prohibited, unless specifically approved by the Planning Commission.
 - (5) The development shall be designed so as to minimize additional runoff from roads, roofs and driveways and other improvements. Further, the development shall be designed, to the maximum extent possible, to minimize runoff from improvements into lakes, streams and wetlands.
 - (6) The Planning Commission may require the preservation of existing desirable vegetation within building sites, except as necessary for the construction of buildings, drain fields and driveways.
 - (7) The Planning Commission may require that individual lots have shared driveways to minimize the removal of vegetation or the alteration of existing slopes.
 - (8) The location of roads, drainage structures and building sites, driveway locations, drain fields and drain field locations shall be designed to minimize the clearing of desirable vegetation and the alteration of existing slopes and drainage patterns.
- (f) **Uniform Lot Size.** Lots for dwellings in the clustered portion of the development shall be as uniform in area as is reasonably practicable, unless otherwise approved by the Planning Commission.
 - (g) **Building Envelopes.** The location and area of building envelopes, as proposed by the applicant, shall be subject to the review and approval of the Planning Commission. Building envelopes shall not be located on top of prominent hilltops, ridges or steep slopes, or in proximity to wetlands or other environmentally sensitive areas.
 - (h) **Required Frontage.** The minimum frontage for lots in the clustered development shall be no less than 70 percent of the minimum frontage that would otherwise be required by this Ordinance if the clustering option permitted by this chapter were not exercised.
 - (i) **Lot Width.** Each lot shall have a minimum width equal to no less than 70 percent of the minimum lot width specified for the zoning district in which the land is located, unless otherwise approved by the Planning Commission.

- (j) **Maximum Number of Lots.** The clustered portion of the development shall contain no more than the maximum number of dwelling lots, as determined from the existing zoning plan approved by the Planning Commission, and as reduced to reflect the inclusion of non-dwelling unit structures, if any, as described in subsection (l).
- (k) **Non-Dwelling Unit Structures.** Lots containing non-dwelling structures such as a clubhouse and its related amenities or an accessory building, shall be subject to all requirements of this chapter applicable to lots containing dwellings and shall further be subject to all other requirements of this Ordinance and other Township ordinances applicable to the type of structure proposed. However, the Planning Commission may, in its discretion, permit the enlargement of a lot containing a non-dwelling structure so as to reasonably accommodate it.
- (l) **Reduction in Lots for Non-Dwelling Structures.** If structures other than dwellings, such as a clubhouse, are constructed on a lot in the clustered portion of the land, the number of dwelling lots permitted in the clustered portion of the land shall be reduced as follows:
 - (1) The area of a lot or lots occupied by non-dwelling structures, shall be calculated and then divided by the average area of a dwelling lot that could be situated in the clustered development if the non-dwelling structures were not included in the clustered development, as determined from the approved existing zoning plan. If this number is a fraction, it shall be rounded up to the nearest whole number.
 - (2) The number calculated under subsection (1) shall be subtracted from the number of dwelling lots that could be permitted in the clustered development in the absence of the non-dwelling structures, as determined from the approved existing zoning plan, in order to determine the maximum number of dwelling lots permitted to be included in the clustered portion of the development with the non-dwelling structures included.
- (m) **Perimeter Lots.** Notwithstanding any other provision of this chapter, the Planning Commission may require that the clustered development be designed and constructed with lot sizes and setbacks on the perimeter that will be reasonably consistent with the lot sizes and setbacks of adjacent uses (planned or existing).
- (n) **Signs.** There may be a sign identifying the name of the development, located near the main entrance thereof, together with such other sign(s) as may be approved by the Planning Commission. All such signs shall comply with applicable provisions of Chapter 18 of this Ordinance.
- (o) **Sidewalks.** The Planning Commission may, in its discretion, require that sidewalks be installed in the clustered portion of the development.

- (p) **Grading.** Grading within the clustered development shall comply with the following requirements:
- (1) To preserve the natural appearance of the land, all graded areas, cuts and fills shall be kept to a minimum. Specific requirements may be placed on the area of land to be graded or to be used for building, and on the size, height, and angles of cut-and-fill slopes and the shape thereof. Retaining walls may be required.
 - (2) All areas indicated as open space on the approved development plan shall be undisturbed by grading, excavating, structures or otherwise, except as permitted by the Planning Commission. Drainage improvements, utility lines, riding trails, hiking trails, picnic areas, and similar recreational improvements and amenities may be placed in open space areas if approved by the Planning Commission.
 - (3) Grading within the clustered development shall be planned and carried out so as to avoid erosion, pollution, flooding or other adverse effects upon the land, and so as to have only such minimal effect upon the environmental characteristics of the land as may be reasonably feasible.
- (q) **Private Streets/Driveways.**
- (1) All streets within a clustered development shall be located away from areas of steep slopes.
 - (2) Private streets within a clustered development shall conform to the private street requirements of this Ordinance. The Planning Commission may, however, following consultation with the Township fire chief and other public safety officials as appropriate, allow a reduction in the minimum right-of-way and roadbed width requirements for all or a portion of the street to minimize the removal of vegetation or alteration of natural slopes. The Planning Commission may require that portions of private streets with reduced widths be designated as one-way only.
- (r) **Other Laws.** The development of land under this chapter is subject to all other applicable Township ordinances, state and federal laws, rules and regulations, including, but not limited to, rules relating to suitability of groundwater for on-site water supply for land not served by a public water system, and rules relating to the suitability of soils for on-site sewage disposal for land not served by public sanitary sewers.

Section 11A.06. Amendments to an Approved Site Plan.

- (a) An approved clustered site plan and any conditions imposed upon its approval shall not be changed except upon the mutual consent of the Planning Commission and the applicant, except as otherwise stated below with respect to a minor change.

- (b) A minor change may be approved by the Zoning Administrator who shall notify the Planning Commission of the minor change and that such change does not substantially alter the basic design or conditions required for the plan by the Commission.

The following items shall be considered minor changes:

- (1) Reduction of the size of any building, building envelope or sign.
 - (2) Movement of buildings or signs by no more than ten feet.
 - (3) Plantings approved in the landscaping plan may be replaced by similar types of plantings.
 - (4) Changes requested by the Township for safety reasons.
 - (5) Changes which will preserve natural features of the land without changing the basic site layout.
 - (6) Other similar changes of a minor nature proposed to be made to the configuration, design, layout or topography of the site development plan which are deemed by the Zoning Administrator to be not material or significant in relation to the entire site and which the Zoning Administrator determines would not have any significant adverse effect on the development or on adjacent or nearby lands or the public health, safety and welfare.
- (c) The Zoning Administrator may refer any decision regarding any proposed change in an approved site plan to the Planning Commission for review and approval (regardless of whether the change may qualify as a minor change). In making a determination whether a change is a minor change, or whether to refer a change to the Planning Commission for approval, the Zoning Administrator may consult with the chairperson of the Planning Commission.
 - (d) Should the Zoning Administrator determine that a requested change in the approved site plan is not minor, re-submission to the Planning Commission for an amendment shall be required, and the consideration thereof shall take place in the same manner as for an original application.

Section 11A.07. Performance Guarantees. The Planning Commission, in its discretion, may require reasonable performance guarantees or assurance deemed satisfactory in the circumstances and authorized by law. Such arrangements shall be conditioned upon faithful compliance with all of the provisions and requirements of the approved clustered site plan, including any conditions thereto, and construction and placement of all the improvements required thereby.

In its discretion, the Planning Commission may rebate or refund a proportionate share of the amount specified in a performance bond, letter of credit, or other written assurance, based upon

the percent or other portion of improvements completed, as verified by the Planning Commission.

Section 11A.08. Time Limitations on Development. Each development permitted pursuant to this chapter shall be under construction within one year after the date of approval of the site plan by the Planning Commission. If this requirement is not met, the Planning Commission may, in its discretion, grant an extension not exceeding one year, provided that the applicant submits reasonable evidence to the effect that unforeseen difficulties or special circumstances have been encountered, causing delay in the commencement of the clustered development.

If the clustered development has not been commenced within the above-stated time period, or within any authorized extension thereof, any building permits issued for the development or any part thereof shall be of no further effect. The applicant shall then be required to seek renewed approval from the Planning Commission under the terms of this chapter in order to exercise the clustering option.

Section 11A.09. Definitions. Words and phrases used in this chapter, if defined in Act 177, shall have the same meaning as provided in the Act.

CHAPTER 12

THE C-1 NEIGHBORHOOD COMMERCIAL DISTRICT

Section 12.01 Description and Purpose. This district is intended for certain commercial uses designed to offer convenience shopping and service opportunities for neighborhood areas. In general, these areas will be limited in size and number of locations. The regulations of the district are designed to ensure that the permitted and specially-approved commercial uses are reasonably compatible with surrounding land uses.

Section 12.02 Permitted Uses. Land, buildings and structures in this district may be used for the following purposes only:

- (a) Antique shop.
- (b) Automotive parts and accessories.
- (c) Bakery.
- (d) Banks and other financial institutions.
- (e) Barber shop.
- (f) Beauty salon.
- (g) Book store.
- (h) Card shop.
- (i) Child care center.
- (j) Clothing store.
- (k) Consumer electronics store.
- (l) Convenience store, including gasoline pumps.
- (m) Dry cleaning.
- (n) Florist.
- (o) Grocery store.
- (p) Hardware store.
- (q) Health and physical fitness establishments.
- (r) Ice cream store.

- (s) Jewelry store.
- (t) Meat market.
- (u) Medical and dental clinics.
- (v) Musical instrument store.
- (w) Offices.
- (x) Pharmacy.
- (y) Photocopy and printing shop.
- (z) Photographic studio.
- (aa) Restaurants and delicatessens, but excluding those with drive-in or drive-through facilities.
- (bb) Retail stores.
- (cc) Self-service laundry facility.
- (dd) Shoe repair shop.
- (ee) Tailor.
- (ff) Video rental and sales.
- (gg) Other similar retail business or service establishments which supply convenience commodities or perform services primarily for residents of the surrounding neighborhood when authorized by the Planning Commission. In considering such authorization, the Planning Commission shall consider the following standards:
 - (1) The size, nature and character of the proposed use.
 - (2) The proximity of the use to adjoining properties.
 - (3) The parking facilities provided for the use.
 - (4) Any likely traffic congestion or traffic hazard.
 - (5) How well the use harmonizes with and enhances adjoining properties in the surrounding neighborhood.
 - (6) The need for the proposed use to serve the surrounding neighborhood.
 - (7) The effect of the use on adjoining properties and the surrounding neighborhood.

Section 12.03 Special Land Uses. The following uses may be permitted as a special land use subject to the requirements of Chapter 15:

- (a) Restaurants which have drive-up or drive-through facilities.
- (b) Essential public service structures and buildings.
- (c) Taverns or bars serving beer, wine and spirits, if licensed as required by law.
- (d) Motor vehicle sales.
- (e) Boat and recreational vehicle sales.
- (f) Garden tractor, lawn care vehicles and other yard vehicle sales.
- (g) Farm tractor and other farm equipment sales.

Section 12.04 Other Uses. The following other uses are permitted as provided in this Ordinance:

- (a) Accessory buildings and other accessory uses as regulated under Section 4.16.
- (b) Signs as regulated under Chapter 18.
- (c) Off-street parking and loading as regulated by Chapter 19.

Section 12.05 District Regulations. Buildings and structures shall not be erected or enlarged unless the following requirements are satisfied:

- (a) **Minimum Lot Area.** None required.
- (b) **Minimum Lot Width.** Eighty feet.
- (c) **Minimum Required Front Building Setback.** Seventy feet.
- (d) **Maximum Building Height.** Thirty five feet.
- (e) No minimum side yard shall be required.
- (f) No minimum rear yard shall be required, except that on a lot or parcel with a rear yard adjacent to a residential district, the minimum depth of the rear yard shall be 40 feet.

Section 12.06 Minimum Floor Area. No minimum building floor area shall be required.

Section 12.07 Site Development Requirements. The following site development requirements shall be complied with:

- (a) Site plan review and approval under Chapter 17 shall be required.
- (b) The outdoor storage of goods or materials shall be prohibited in the required front yard, but this provision shall not prohibit the display of merchandise out of doors for sales purposes. Goods or materials stored in a side or rear yard shall be screened from view from the street or from adjacent lands.
- (c) Not more than one driveway per street shall be permitted for each principal use, except that the Planning Commission, in connection with site plan review, may permit or require additional driveways, if justified by the need therefor and if the same can be accommodated without adverse effect upon the use of the adjacent street.
- (d) Parking areas may be required to be screened from the adjacent streets, in connection with site plan review under Chapter 17.
- (e) Lighting fixtures for parking lots shall be not higher than 20 feet and shall be provided with cut-off light fixtures so as to minimize the amount of light extending into areas outside of the parking lot.
- (f) The Planning Commission, in considering site plan approval under Chapter 17, may require the design and installation of service drives for motor vehicles, or other interior streets and drives, as a means of avoiding traffic congestion or improving traffic circulation, and for other purposes.
- (g) All land uses shall take place entirely within a completely enclosed building, except for driveways and off-street parking and loading, drive-up or drive-through facilities, limited seasonal outdoor display of merchandise for sales purposes only and for merchandise pick up and delivery purposes.

CHAPTER 13

THE C-2 GENERAL COMMERCIAL DISTRICT

Section 13.01 Description and Purpose. This district is intended to accommodate land uses which can provide commercial goods and services to residents of and visitors to the Township, including commercial uses which by reason of traffic or other impacts would ordinarily not be compatible with nearby residential areas or with a neighborhood commercial district. The permitted and specially-approved uses are intended to serve the community in general, including travelers on the highways in and around the Township.

Section 13.02 Permitted Uses. Land, buildings and structures in this district may be used for the following purposes only:

- (a) Any use permitted in the C-1 District.
- (b) Department or discount stores.
- (c) Retail building supply and equipment stores.
- (d) Retail nurseries and garden centers.
- (e) Funeral homes.
- (f) Indoor or outdoor commercial recreation facilities.
- (g) Utility and public service buildings, without storage yards.
- (h) Restaurants, including drive-up and drive-through facilities.
- (i) Motor vehicle service stations.
- (j) Vehicle repair or body shops.
- (k) Taverns or bars serving beer, wine and spirits, if licensed as required by law.
- (l) Mini-warehouses and self-storage facilities.
- (m) Private clubs, fraternal organizations and lodge halls.
- (n) Other similar retail business or service establishments which supply convenience commodities or perform services primarily for the motoring public and area residents when authorized by the Planning Commission. In considering such authorization, the Planning Commission shall consider the following standards:
 - (1) The size, nature and character of the proposed use.
 - (2) The proximity of the use to adjoining properties.

- (3) The parking facilities provided for the use.
- (4) Any likely traffic congestion or traffic hazard.
- (5) How well the use harmonizes with and enhances adjoining properties in the surrounding neighborhood.
- (6) The need for the proposed use to serve the surrounding neighborhood.
- (7) The effect of the use on adjoining properties and the surrounding neighborhood.

Section 13.03 Special Land Uses. The following uses may be permitted as a special land use subject to the requirements of Chapter 15:

- (a) Open air businesses.
- (b) Contractor yards for construction equipment.
- (c) Commercial kennels.
- (d) Automatic and self-serve vehicle wash facilities.
- (e) Motels and hotels.
- (f) Theaters.
- (g) Commercial storage warehouses.
- (h) Warehousing, bulk storage and transport of propane, liquid petroleum, fuel oil and similar fuels, but not including gasoline.
- (i) Sexually oriented businesses, as defined and regulated in Chapter 15.

Section 13.04 Other Uses. The following other uses are permitted as provided in this Ordinance:

- (a) Accessory buildings and other accessory uses as regulated under Section 4.16.
- (b) Signs as regulated under Chapter 18.
- (c) Off-street parking and loading as regulated by Chapter 19.

Section 13.05 District Regulations. Buildings and structures shall not be erected or enlarged unless the following requirements are satisfied:

- (a) **Minimum Lot Area.** None required.
- (b) **Minimum Lot Width.** Eighty feet.

- (c) **Minimum Required Building Setbacks.** Seventy feet.
- (d) **Maximum Building Height.** Thirty five feet.
- (e) No minimum side yard shall be required.
- (f) No minimum rear yard shall be required, except that on a lot or parcel with a rear yard adjacent to a residential district, the minimum depth of the rear yard shall be 40 feet.

Section 13.06 Minimum Floor Area. No minimum building floor area shall be required.

Section 13.07 Site Development Requirements. The following site development requirements shall be complied with:

- (a) Site plan review and approval under Chapter 17 shall be required.
- (b) The outdoor storage of goods or materials shall be prohibited in the required front yard, but this provision shall not prohibit the outdoor display of merchandise for sales purposes. Goods or materials stored in a side yard or rear yard shall be screened from view from the street or from adjacent lands.
- (c) Not more than one driveway per street shall be permitted for each principal use, except that the Planning Commission, in connection with site plan review, may permit or require additional driveways, if justified by the need therefor and if the same can be accommodated without adverse effect upon the use of the adjacent street.
- (d) Parking areas may be required to be screened from the adjacent streets, in connection with site plan review under Chapter 17.
- (e) Lighting fixtures for parking lots shall be not higher than 30 feet and shall be provided with cut-off light fixtures so as to minimize the amount of light extending into areas outside of the parking lot.
- (f) The Planning Commission, in considering site plan approval under Chapter 17, may require the design and installation of service drives for motor vehicles, or other interior streets and drives, as a means of avoiding traffic congestion or improving traffic circulation, and for other purposes.

CHAPTER 14
I - INDUSTRIAL DISTRICT

Section 14.01 Description and Purpose. This zoning district permits the compounding, assembling, or treatment of articles or materials, but does not permit heavy manufacturing or the processing of raw materials. The district also provides for certain other services and uses that are compatible with light industrial uses.

Section 14.02 Permitted Uses. Land, buildings and structures in this zoning district may be used for the following purposes only:

- (a) The compounding, processing, packing or treatment of such products as candy, cosmetics, drugs, perfumes, pharmaceuticals, toiletries, and food products, except the rendering or refining of fats and oils.
- (b) The compounding, assembly or treatment of articles from the following previously-prepared materials: canvas, cloth, cork, felt, fibers, glass, leather, paper, plastics, rubber, tin, wood, yarn and metals (excluding mercury).
- (c) Motor vehicle repair shops.
- (d) Contractor yards.
- (e) Crating and packing service.
- (f) Printing shops.
- (g) Sign painting and servicing shops.
- (h) Public utility service or storage yard.
- (i) Warehouses and storage.
- (j) Wholesale sales.
- (k) Off-site parking lots not associated with another principal use.
- (l) Other similar light industrial uses that involve the compounding, assembly or treatment of goods, articles or materials, but which do not involve heavy manufacturing or the processing of raw materials.

Section 14.03 Special Land Uses. The following uses may be permitted as a special land use subject to the requirements of Chapter 15.

- (a) Salvage yards and recycling facilities.
- (b) Bottling plants and dairies.
- (c) Machine shop and tool and die shops.

- (d) Sawmills.
- (e) Sexually oriented businesses, as defined and regulated in Chapter 15.

Section 14.04 Other Uses. The following other uses are permitted as provided in this Ordinance:

- (a) Accessory buildings and other accessory uses as regulated under Section 4.16.
- (b) Signs as regulated under Chapter 18.
- (c) Off-street parking and loading as regulated by Chapter 19.

Section 14.05 District Regulations. Buildings and structures shall not be erected or enlarged unless the following requirements are satisfied:

- (a) **Minimum Lot Area.** Two acres.
- (b) **Minimum Lot Width.** Two hundred fifty feet.
- (c) **Minimum Required Building Setbacks.**
 - (1) **Front Yard.** There shall be a minimum front yard setback of 70 feet.
 - (2) **Side Yards.** There shall be two side yards, and each side yard shall have a minimum depth of 50 feet. Where the I District abuts an R-1 Single Family Residential District, an R-2 Two Family and Multiple Family District or an R-3 Mobile Home Park District, a minimum side yard setback of at least 75 feet shall be maintained.
 - (3) **Rear Yard.** There shall be a minimum rear yard setback of 50 feet.
- (d) **Maximum Building Height.** Thirty five feet, provided, however, that such maximum building height may be exceeded if approved by the Planning Commission as a special land use under Chapter 15.
- (e) Site plan review and approval under Chapter 17.

Section 14.06 Minimum Floor Area. No minimum building floor area shall be required.

Section 14.07 Site Development Requirements. The following site development requirements shall be complied with:

- (a) Any side yard or rear yard adjoining any lot or parcel of land in the R-1 or R-2 District shall be screened by a compact hedge of deciduous or evergreen trees, having such minimum height as determined by the Planning Commission in its review and approval of the site plan under the terms of Chapter 17.

- (b) Ingress to and egress from any lot or parcel of land shall be designed and used so as to maximize pedestrian safety, ease of traffic flow and control and ready access by emergency vehicles and personnel.
- (c) Off-street parking and loading areas shall be designed and used so as to avoid significant adverse impact on adjacent and nearby lands.
- (d) Uses shall be designed and operated so as to maximize motor vehicle and pedestrian safety and convenience, to promote ease of traffic flow and to minimize the effects, if any, of smoke, noise, dust, vibration, odor or other serious adverse effects on adjacent or nearby lands.
- (e) Fencing shall be established and maintained, if required by the Planning Commission.

Section 14.08 Current Legal Nonconforming Uses.

- (a) If at the time of adoption of this Ordinance there are legal nonconforming uses in the I Industrial District, such uses may continue, if they were lawful prior to the adoption of this Ordinance, but only to the extent and with the intensity of use that existed at the time of adoption of this Ordinance.
- (b) The expansion or enlargement of any legal nonconforming use, or an increase in intensity of use, regardless of whether there is an increase in land area, shall be permitted only upon approval of the same by the Planning Commission, as a special land use, if the industrial use in question is authorized by this Ordinance as a special land use.
- (c) In the case of an application to the Planning Commission for the expansion or enlargement of a lawful nonconforming use, or in the case of an application for special land use approval for an increase in the intensity of use, with respect to a legal nonconforming use, the Planning Commission may require that all nonconforming aspects of the existing use be brought into compliance with the terms of this Ordinance, as a condition of the granting of any such special land use. This provision shall be a condition on the expansion of any such lawful nonconforming use, irrespective of terms otherwise provided in Chapter 20 of this Ordinance.
- (d) In its discretion, the Planning Commission may require that some, but not all, of the nonconforming aspects of an existing special land use be brought into compliance with the terms of this Ordinance, as a condition of the granting of a special land use for the expansion or enlargement, or increase in the intensity of use, of such nonconforming use.
- (e) For purposes of this chapter, existing dumps, junk yards, salvage yards and recycling stations shall be deemed to be salvage yards and recycling facilities within the meaning of Section 14.03(a) of this chapter. Accordingly, all such existing uses shall be subject to the special land use provisions of this Ordinance,

irrespective of whether their original approval, if any, was by means of special land use approval.

- (f) In its discretion in the enforcement of the provisions of this Ordinance, the Township may require that existing dumps, junk yards, salvage yards and recycling stations file applications with the Township for approval as special land uses, and in such event, the Planning Commission shall consider the same, and determine whether such existing uses and facilities shall be granted approval as special land uses, and the Commission shall also consider and determine what terms and conditions shall be imposed upon any such approvals.

CHAPTER 15

SPECIAL LAND USES

Section 15.01 Purpose of Special Land Uses. Uses allowed as special land uses are those which, because of their nature, are not necessarily appropriate at all locations throughout a zoning district, or are appropriate only if subject to special conditions. The purpose of this chapter is to provide standards and procedures for reviewing requests for special land uses, and for imposing conditions upon such uses.

Section 15.02 Procedures for Special Land Uses. For the consideration of a special land use, an applicant shall do the following:

- (a) File a completed application with the Township Clerk for submission to the Planning Commission, together with a site plan in compliance with Chapter 17, and other materials and information necessary to demonstrate that all requirements for the applicable special land use have been met. Each such application shall be accompanied by the filing fee as specified by Township Board resolution.
- (b) Upon receipt of such application, one notice that a request for a special land use has been received shall be published in accordance with Section 22.07 of this Ordinance.
- (c) In the case of special land uses requiring the approval of the Township Board, upon the request of the applicant or a property owner or occupant of a structure located within 300 feet of the boundaries of the subject property, a Township Board public hearing shall be held on the special land use application. The type and extent of notice for such hearing requested by the applicant or a property owner or an occupant shall be the same as that required for a Planning Commission public hearing on a special land use application.
- (d) In its discretion, the Planning Commission or Township Board may require submission of an environmental impact assessment, traffic impact study, utility system plan, storm water management plan, water supply system plan and other plans or studies, or any of them, bearing upon the operation and effects of the special land use.
- (e) In its review of a special land use application, the Planning Commission (or the Township Board, in the case of special land uses requiring Township Board approval) may submit the application, site plan and other materials and information bearing on the proposed special land use to its consulting engineer and other professional consultants and advisors, including the Township attorney, land use planning consultants, traffic engineers, governmental officials and other persons whose advice may be of assistance to the Planning Commission or Township Board in the consideration of a special land use application.

Section 15.03 General Standards. To approve a special land use, the Planning Commission (or the Township Board, if the Township Board is the approving body) must find that all the following general standards are satisfied, in addition to any applicable standards set forth in this Ordinance for particular special land uses:

- (a) The special land use shall be established, laid out and operated so as not to have a substantial adverse effect upon adjoining or nearby lands or any of the uses thereof.
- (b) The special land use must not have an adverse effect on water and sewer services, storm water drainage, road capacity and volume of traffic and traffic safety and circulation.
- (c) The special land use must not have an adverse effect on police and fire services and other public safety and emergency services.
- (d) The special land use must not have an adverse effect on the need and demand for public services and the protection and preservation of natural features and natural resources.
- (e) The special land use shall not have an adverse impact upon other pertinent land use factors including but not limited to the view from adjacent and nearby lands; off-street parking and loading; refuse removal and similar services; control of noise, glare and vibration; signs; outdoor lighting.
- (f) The special land use shall have safe and reliable facilities for the collection and disposal of sanitary sewage and the providing and distribution of water supply. In the discretion of the Planning Commission, water supply and sewage disposal plans shall be submitted for review by the Township's consulting engineer.
- (g) The special land use shall be consistent with the intent and purposes of this Ordinance and the Master Plan.

Section 15.04 Decision.

- (a) The Planning Commission (or the Township Board with respect to any uses for which the Board is the approving body) shall deny, approve or approve with conditions a request for a special land use. The decision shall be incorporated in the minutes or in a separate statement containing the conclusions relative to the special land use under consideration, specifying the basis for the decision and any conditions imposed.
- (b) As to those special land uses which, according to this Ordinance, shall be approved through action of both the Planning Commission and the Township Board, the action taken by the Planning Commission shall be a recommendation on whether the proposed special land use shall or shall not be granted and, if granted, upon what conditions it shall be granted. Such recommendation shall be forwarded to the Township Board, and the final decision on the special land use

shall be made by the Township Board, at a public meeting, and after considering the Planning Commission recommendation. In considering a recommended special land use, the Township Board need not convene a public hearing, nor give notice other than that otherwise required for a Township Board meeting, unless required to do so by other provisions in this Ordinance. In making its decision on a proposed special land use, the Township Board may adopt the recommendation of the Planning Commission or it may depart from the recommendation, either in whole or in part.

Section 15.05 Conditions of Approval. The Planning Commission may impose reasonable conditions on the approval of a special land use. Said conditions shall meet the following requirements:

- (a) Be designed to insure public services and facilities affected by the proposed use or activity will be capable of accommodating increased service and facility loads caused by the proposed use.
- (b) Be designed to insure that said use is compatible with adjacent land uses and activities.
- (c) Be designed to protect natural resources, the health, safety, and welfare and the social and economic well being of those who will use the land use or activity under consideration, residents and landowners immediately adjacent to the proposed land use or activity, and the community as a whole.
- (d) Be related to the valid exercise of the police power and purposes which are affected by the proposed use or activity.
- (e) Be necessary to meet the intent and purpose of the zoning ordinance, be related to the standards established in the Ordinance for the land use or activity under consideration, and be necessary to insure compliance with those standards.
- (f) The conditions imposed with respect to the approval of a special land use shall remain unchanged except upon the mutual consent of the Planning Commission and the landowner. The Planning Commission shall maintain a record of conditions which are changed.

Section 15.06 Expiration of Special Land Use. A special land use shall expire one year after it is granted, unless construction is complete or commencement of the use has substantially begun. The Planning Commission may, upon request by the applicant, extend the term of the special land use by successive periods of up to one year each upon a finding that there have been no changed conditions in the area which would require reconsideration of the special land use application or site plan.

Section 15.07 Revocation of Special Land Use. If a violation of any of the conditions or standards imposed on a special land use is found to exist following inspection, the Zoning Administrator shall notify the owner of the premises of the special land use and the Planning Commission that such violation exists and that the special land use will be revoked within 15

days of such notification. If said violation is not corrected within 15 days, the Planning Commission shall revoke the special land use. Furthermore, such a violation is hereby declared to be a violation of the zoning ordinance, subject to all of the remedies and penalties provided for in this Ordinance.

Section 15.08 Performance Standards. The following provisions are standards for specific special land uses which must be satisfied to qualify for a special land use, in addition to the general standards set forth in this chapter.

Section 15.09 Churches.

- (a) Churches shall be located on a parcel of land of at least two acres in area, unless the Planning Commission allows a lesser area, in accordance with the general standards for special land uses.
- (b) Playgrounds, athletic grounds or similar recreational areas associated with a church may be permitted if approved by the Planning Commission.
- (c) Steeples, spires and roof ornamentation in excess of the height permitted in the zoning district in which a church is located may be approved by the Planning Commission as a special land use.
- (d) A nursery school or child care center may be operated on church property if approved by the Planning Commission as an additional special land use. Any such nursery school or child care center shall be located in the church building or in an accessory building located on the church property. There shall be appropriate and sufficient off-street parking areas, outdoor play areas, appropriate fencing and other design elements and features for the safety of the children attending and the appropriate operation of the child care facility. The Planning Commission may require appropriate registration or licensing as may be required by law.

Section 15.10 Schools.

- (a) The area of associated playgrounds, athletic grounds and other recreational areas shall be subject to approval of the Planning Commission.
- (b) Provision shall be made for adequate off-street parking area, proper vehicle circulation routes within the school building site and appropriate routes and parking area for school buses shall be provided on the site.
- (c) The location of public and private schools, in relation to public streets and other land uses, shall be such as to provide for convenient ingress to and egress from school buildings and other school facilities and so as to avoid serious adverse effects upon adjacent and nearby lands.

- (d) Suitable arrangements for domestic and fire protection water supply, sanitary sewage disposal and the handling and management of storm water drainage shall be provided for.

Section 15.11 Libraries and Museums.

- (a) Libraries, museums and similar special land uses, owned and operated by a governmental agency or nonprofit organization, shall have direct and adequate access to and from a public street.
- (b) In considering the approval of a special land use for such purposes, the Planning Commission shall consider among other matters, the location of the facility, adequacy of access, sufficient off-street parking area and such other matters as will assure the design and operation of the facility in such a manner as to have no serious adverse effects upon adjacent or nearby lands.

Section 15.12 Parks, Playgrounds and Community Centers.

- (a) Parks, playgrounds and community centers shall have direct access from and to a public street. Adequate off-street parking shall be provided.
- (b) Outdoor lighting shall not be brighter than necessary to provide for the safe use of the facility, and any such lighting shall be directed away from adjoining properties and public rights-of-way.
- (c) The Planning Commission may require adequate screening of the use from adjacent and nearby lands or may require specified setbacks from property lines, so as to avoid serious adverse effects upon other lands and land uses.

Section 15.13 Golf Courses, Country Clubs and Riding Stables.

- (a) All such uses shall have direct access to a public street. Adequate off-street parking shall be provided.
- (b) Outdoor lighting, if any, shall be not brighter than necessary in order to provide for the safe use of the facility, and all such lighting shall be directed away from adjoining lands and public rights-of-way.
- (c) Retail sales and restaurants, including restaurants serving alcoholic beverages, may be permitted as an additional special land use.
- (d) In the case of golf courses and country clubs, tees, fairways, greens and trails shall be arranged in a manner so as to limit stray golf shots and trespassing onto adjacent lands. Fencing may be required.
- (e) In the approval of a special land use, the Planning Commission may specify additional building setbacks from property lines, so as to avoid adverse effect upon adjacent lands. Screening by means of landscaping may be required.

Section 15.14 Campgrounds.

- (a) For purposes of this section, a campground shall refer to an area established for camping, and shall include the use of tents, recreational vehicles and buildings.
- (b) The campground use shall have direct access to a public street.
- (c) All sanitary facilities shall be designed and constructed in full compliance with applicable county health department regulations.
- (d) The number of sites for camping use and the distance between camp sites shall be subject to the approval of the Planning Commission.
- (e) Adequate off-street parking area shall be provided. The Planning Commission may impose requirements with regard to generalized parking area, for campers and visitors, and also for a parking space or spaces within each individual campsite.
- (f) There shall be a recreation area, or other common use area within the campground. The Planning Commission may impose requirements on the area, location, landscaping and use of such common use area.
- (g) There shall be adequate provision for the proper handling of storm water drainage, and the Planning Commission may impose requirements relating thereto.
- (h) No business or commercial uses shall take place within a campground, except for such convenience-goods store or location that may be approved by the Planning Commission, and subject to limitations and minimum requirements imposed thereon.
- (i) Where required, all state permits for the campground shall be obtained and shall be kept fully in force.
- (j) Existing campgrounds in the Township, if previously approved as a special land use, shall be subject to subsequent approval under this section, upon the expiration of any current special land use, except that in granting any such further special land use of an existing campground, the Planning Commission may waive any of the above minimum requirements, and determine that the campground may be lawfully nonconforming, with regard to any such waived requirements.

Section 15.15 Bed and Breakfast Establishments.

- (a) The bed and breakfast establishment shall be located on lands with direct access to a public street.
- (a) The use shall be established only in a detached single family dwelling.

- (b) There shall be adequate off-street parking, so located as to minimize negative impacts upon adjacent lands.
- (c) Exterior refuse storage facilities shall be screened from view on all sides by a solid decorative fence or landscaping.
- (d) One freestanding sign shall be allowed for identification purposes only. The freestanding sign shall not exceed 16 square feet in area and shall not be more than four feet in height; it may not be illuminated.
- (e) The establishment shall also be the residence of the operator.
- (f) Breakfast may be served, but only to overnight guests and to the operator's family and employees. The establishment shall not be used for public restaurant purposes.

Section 15.16 Family Day Care Homes.

- (a) Family day care homes for more than six minor children may be approved as a special land use by the Planning Commission.
- (b) Adequate off-street parking, including off-street pick-up and drop-off areas shall be provided.
- (c) There shall be adequate outdoor recreation space, sufficient for the number of persons being cared for in the home, and of such area as approved by the Planning Commission.
- (d) All applicable state licensing requirements shall be complied with.

Section 15.17 Adult Foster Care Family Homes.

- (a) Adult foster care family homes for more than six adults shall be subject to special land use approval by the Planning Commission.
- (b) All such facilities shall comply with applicable state licensing requirements.
- (c) Adequate off-street parking area and adequate recreational space within the property shall be provided, and shall be of such area as is approved by the Planning Commission.
- (d) Exterior refuse storage facilities shall be screened from view on all sides by a decorative fence or adequate landscaping.

Section 15.18 Salvage Yards and Recycling Facilities.

- (a) The entire operation shall be completely enclosed by a screening fence at least eight feet in height or within a building.

- (b) A site development plan shall be submitted, and shall be subject to approval of the Planning Commission.
- (c) Specifications and detail for all screen fencing shall be submitted and shall be subject to approval of the Planning Commission.
- (d) The screening fence shall be of such design and material as to completely obscure the discarded materials and other materials on the premises for salvage, recycling or other purposes. The area enclosed by the screening fence shall not include any portion of the lands that is required for the minimum yard sizes under the terms of this Ordinance.
- (e) No such use shall be permitted within 100 feet a property line or public street.
- (f) No materials or items stored or included in the use shall exceed the height of the screening fence.
- (g) The use shall be designed, constructed, maintained and operated so as to have no serious adverse effects upon adjacent or nearby lands or on the public streets by reason of noise, dust, fumes, vibration, groundwater contamination, other pollution or other adverse effects.

Section 15.19 Roadside Stands.

- (a) Roadside stands with more than 200 square feet of sales area for the sale of produce grown on the premises and for other limited purposes shall be subject to special land use approval by the Planning Commission.
- (b) The roadside stand shall be situated a safe and adequate distance back from the traveled portion of the street right-of-way.
- (c) If approved by the Planning Commission, a roadside stand may sell, in addition to produce grown on the premises, other related goods and items, including though not limited to jams and jellies, breads and pastries, cheese, small arts and crafts items, candies and specialized kitchen utensils.
- (d) The roadside stand shall be operated on a seasonal basis only.
- (e) The roadside stand shall be operated not later than one-half hour after sunset.

Section 15.20 Farm Markets.

- (a) Farm markets having an area greater than 800 square feet shall be subject to special land use approval by the Planning Commission.
- (b) There shall be direct access from a public street and adequate off-street parking shall be provided.

- (c) The building or other facility in which the farm market operation is conducted shall be located a safe and adequate distance from the traveled portion of the street right-of-way.
- (d) Farm markets may sell produce grown on the premises, other produce and related food and agricultural goods and items, including small arts and crafts and bakery goods.
- (e) Any outdoor lighting shall be directed downward and shall not cause adverse effects on adjacent or nearby lands.
- (f) Access driveways shall be located not less than 25 feet from the nearest part of the intersection of any street.
- (g) Outdoor refuse storage areas shall be screened on all sides.
- (h) There may be one sign identifying the farm market, with the placement, size and height thereof to be subject to the approval of the Planning Commission.

Section 15.21 Intensive Livestock Operations.

- (a) Intensive livestock operations shall be permitted only on a parcel of land of at least 40 acres in area.
- (b) All buildings in which animals are fed or housed shall be located at least 300 feet away from any property line.
- (c) The Planning Commission may impose conditions on the isolation distance between outdoor areas where animals are pastured or maintained, and property boundary lines.
- (d) All boundaries of the property must be adjacent to other properties in the AG Agricultural District.
- (e) All intensive livestock operations shall be located at least 500 feet away from any lake, stream or other body of water.
- (f) The facility shall be operated in full compliance with all accepted agricultural management practices with regard to intensive livestock operations, so as to avoid serious adverse impact upon adjacent or nearby lands by reason of odor, dust, noise or water runoff from the site.

Section 15.22 Airfields and Landing Strips.

- (a) Private airfields and private landing strips may be allowed if authorized by the Planning Commission as a special land use.

- (b) Such use shall not adversely affect existing or future development of the Township.
- (c) The take-off and landing pattern within 1,000 feet of the end of a runway shall not pass over an occupied structure.
- (d) The airfield or landing strip shall be at least 200 feet away from any property line.
- (e) The airfield or landing strip shall be so located, operated and managed as to have no adverse effect upon the safety of persons living in the Township.
- (f) The airfield or landing strip shall comply with all applicable rules and regulations, including those of the State of Michigan and the Federal Aviation Administration.

Section 15.23 Utility and Public Service Buildings.

- (a) The materials, color and design of such buildings shall be generally compatible with the surrounding neighborhood.
- (b) Utility and public service buildings shall comply with the yard setback requirements of the district in which such buildings are located. The Planning Commission may, however, increase the minimum setback areas, as a condition of special land use approval.
- (c) Fencing and screening may be required.
- (d) Adequate driveways and off-street parking areas for the vehicles servicing the buildings shall be provided.

Section 15.24 Removal and Processing of Sand, Gravel and Other Mineral Resources.

- (a) The removal or extraction of sand, gravel, soil, rock and similar natural resources shall be permitted only with the intent and in such manner as to meet the need for such natural resources to be used, or to prepare the lands for use in accordance with the provisions of the district in which the lands are located.
- (b) Special land use approval shall not be required where the removal or extraction of natural resources is located more than 500 feet from any street or property line, occupies not more than two acres in area and does not constitute a weekly average intensity of use of more than five cubic yards of material per day and creates no area which fills with water, other than farm watering ponds.
- (c) The special land use provisions of this section shall apply only to the excavation and removal of sand, gravel and other mineral resources of more than 5,000 cubic yards. The excavation and removal of sand, gravel and other mineral resources in a quantity of 5,000 cubic yards or less is subject to issuance of a mineral removal permit issued by the Zoning Administrator under the terms of subsection (v) of this section.

- (d) An application for special land use approval for removal and processing of sand, gravel and other mineral resources shall include the following:
- (1) A written legal description of all of the lands proposed for the use.
 - (2) Eight copies of a plan for mineral removal, drawn and sealed by a registered civil engineer, and including the following:
 - a. A north arrow, scale and date.
 - b. Shading indicating the extent of land area on which mineral removal operations and activities will take place.
 - c. The location, width and grade of all easements or rights-of-way on or abutting the lands.
 - d. The location and direction of all water courses and flood control channels which may be affected by the mineral removal operations.
 - e. Existing elevations of the lands at intervals of not more than five feet.
 - f. Typical cross sections showing the estimated extent of overburden, estimated extent of mineral material location in or on the lands, and the water table.
 - g. Mineral processing and storage areas.
 - h. Proposed fencing, gates, parking areas, and signs.
 - i. Roads for ingress to and egress from the lands, including on-site roads, other areas to be used for movement of vehicles and a description of the proposed measures to limit dust generated by mineral removal activities and movement of vehicles.
 - j. A map showing access routes between the subject lands and the nearest county primary arterial road.
 - k. Areas to be used for ponding.
- (e) The applicant shall submit a narrative description and explanation of the proposed mineral removal operations and activities, including the date of commencement, proposed hours and days of operation, estimate of the type and quantity of mineral materials to be removed, description of extraction and processing methods, including proposed equipment and the noise rating of each type thereof, and a summary of the procedures and practices which will be used to insure compliance with the conditions of this section.

- (f) A site rehabilitation plan shall be submitted. It shall include the following:
 - (1) A description of the planned site rehabilitation and the end uses, including methods of accomplishment, phasing and timing.
 - (2) A plan showing the final grades of the lands as rehabilitated, at contour intervals not exceeding five feet; and also including water courses, ponds or lakes, if any; landscaping and plantings; areas of cut and fill; and all of the components of the proposed end uses.
 - (3) A description of the proposed methods or features which will insure that the end uses are feasible and will comply with the Township Master Plan and the requirements of this Ordinance.
- (g) The Planning Commission may require an environmental impact statement, engineering data, traffic impact study or other studies or information concerning the need for and consequences of such mineral extraction and removal.
- (h) Each site rehabilitation plan shall be reviewed by the Planning Commission so as to determine its compliance with all of the following standards and requirements:
 - (1) Topsoil shall be replaced on the site to a depth of not less than six inches, except where the end-use activities or features do not involve the planting of lawns or growing of vegetation. Slopes shall be graded and stabilized to such extent as will accommodate the proposed end-use. The plan shall indicate the phasing of site rehabilitation, if the same is to take place in phases, and if so, topsoil shall not be replaced and slopes shall be graded and stabilized before mineral removal operations or activities are commenced in another area of the site.
 - (2) Final slopes shall have a ratio of not more than one foot of elevation to three feet of horizontal distance.
 - (3) Plantings of grass, shrubs, trees, and other vegetation shall be made so as to maximize erosion protection, screen less attractive areas of end-uses, and enhance the beauty of the site as rehabilitated.
- (i) The Planning Commission may approve routes for truck movements to and from the removal site. Access roads within the area of operation shall have a dustless surface and the entry road shall be hard surfaced for such distance as required by the Planning Commission.
- (j) No machinery shall be located or used within 50 feet of any property or street line. No cut or excavation shall be made closer than 50 feet to any street right-of-way line or property line. The Planning Commission may require greater distances for the location of machinery, storage or parking of equipment, or limits of excavation.

- (k) Proper measures may be required so as to minimize the nuisance of noise, dust and other adverse impacts. Limitations may be imposed upon the stockpiling of excavated material on the site.
- (l) During activities and operations for the removal of mineral material, no such material or other excavated material shall be left during weekends or overnight in such condition or manner as to constitute a danger to those who may enter the removal area. All banks of excavated material shall be graded to slopes having a vertical to horizontal ratio of not greater than one foot of elevation for each two feet of horizontal distance, after the cessation of daily operations; provided, however, that the Planning Commission may require some lesser daily grading requirement if the applicant provides a substantially constructed and maintained wire fence, or fence of other substantial material, of at least four feet in height, and so located that any slopes steeper than one foot of elevation for each two feet of horizontal distance cannot inadvertently be approached by persons who may enter the removal area.
- (m) The Planning Commission may require compliance with other conditions that may be necessary to ensure compliance with the terms of this section. Such conditions may include, though not be limited to, weed controls, erosion and sedimentation controls, fencing and visual screening, requirements for groundwater monitoring wells, preservation of trees and other vegetation and fuel loading and storage requirements.
- (n) An applicant for special land use approval shall submit a performance bond or letter of credit in accordance with the requirements of this Ordinance, naming the Township as the insured party and conditioned upon the timely and faithful performance by the applicant of all of the terms and conditions of the special land use. Such bond or letter of credit shall have such other terms and shall be in such amount as is required by the Planning Commission.
 - (1) The performance bond or letter of credit shall not be refunded, reduced or transferred until the mineral removal operations, land reclamation or restoration and all other required activities have received final inspection and approval, and until the Planning Commission has determined that the applicant has fully complied with all of the terms and conditions of the special land use.
 - (2) The timely and faithful compliance with all of the terms of the performance bond or letter of credit shall be a condition of mineral removal operations. In the absence of such compliance, or if the bond or letter of credit is revoked or if it expires and is not renewed, the Planning Commission need not approve the renewal of any special land use, even if the applicant has otherwise complied with the terms of the special land use.

- (o) The Planning Commission may impose a time limit on the special land use. A renewal of the use thereafter may be permitted by the Planning Commission, upon such terms and with such duration as the Planning Commission may determine, after the same public hearing and the same public notice as is required for the original special land use.
- (p) The special land use may include only the excavation, processing and removal of mineral resources located on the lands. Other mineral resources or other materials may not be brought to the site for storage, processing or other purposes, except that additional permanent fill material may be brought to the site in compliance with an approved site rehabilitation plan.
- (q) No mechanical processing of natural resources shall be permitted in any district where such operation would be seriously detrimental to adjacent or nearby land uses. Mechanical processing may be limited to screening of gravel and other material, in the discretion of the Planning Commission, or it may also include crushing of gravel or stone, if authorized by the Planning Commission, and under such limitations as the Commission may provide.
- (r) Storm water runoff shall be directed to existing drainage systems, or shall otherwise be handled, in a manner approved by the Planning Commission.
- (s) The creation or enlargement of a lake, in connection with rehabilitation of the site, shall be permitted only where the applicant demonstrates from engineering and geological studies that the waters of the lake will not become polluted or stagnant. Any such lake shall be approved by agencies having jurisdiction, including the Department of Environmental Quality and the County Drain Commissioner.
- (t) No removal area, storage area, access drive, processing area or loading area shall be located closer than 150 feet to a principal structure on an adjoining or nearby property.
- (u) All structures and stored materials and equipment shall be removed from the site within two months of the discontinuance of the use for removal or extraction of natural resources.
- (v) Zoning Administrator permit for removal of sand, gravel and other mineral resources of 5,000 cubic yards or less. The excavation for and removal of sand, gravel, soil and other mineral resources may be authorized upon the issuance of a mineral removal permit by the Zoning Administrator, where the total quantity of mineral material to be removed will be 5,000 cubic yards or less, in accordance with the provisions of this subsection. Any such mineral removal operation shall comply with all of the following requirements:
 - (1) The removal shall not cause serious adverse effects upon adjacent or nearby lands.

- (2) The removal operation shall be subject to all of the operating terms and conditions stated in the permit issued by the Zoning Administrator. Such terms and conditions may include requirements pertaining to driveway access; truck routes; use and placement of equipment; isolation distance between operations and property boundary lines; storm water drainage; fencing and gates; elevation of slopes; preservation of trees and other vegetation; visual screening; and other matters.
- (3) The excavation and removal operation must be one that is complete in and of itself; it may not constitute merely a part, portion or phase of some other larger, different or recurring removal operation, plan or activity. A property owner or operator may not repeat or combine successive removal operations of up to 5,000 cubic yards each, for the purpose of ultimately removing a larger quantity of mineral material.
- (4) An applicant for such mineral removal operation of up to 5,000 cubic yards shall submit an application to the Zoning Administrator, for a permit for such operation. The application shall include the legal description of the lands; a description of the nature and intent of the proposed removal activity; a list of equipment to be used in the operation; a description of the measures to be taken to ensure that there will be no serious adverse effects upon other lands or persons; a description of the proposed route or routes to be used in transporting the removed material; proposed reclamation measures; and a topographic map showing existing and proposed final contour lines, unless such map is waived by the Zoning Administrator.
- (5) In considering whether to approve a mineral removal permit, the Zoning Administrator shall consider the following matters:
 - a. The land area involved and the quantity of earth material to be removed.
 - b. The effects of the removal activity on adjoining and nearby lands.
 - c. The possibility that the removal operation may cause or create safety hazards, erosion of lands or other adverse effects.
 - d. Potential traffic congestion and adverse traffic effects which may result from the removal and hauling of mineral material.
 - e. The proposed nature and extent of reclamation of the land after completion of the removal operations.
- (6) Any mineral removal permit issued by the Zoning Administrator shall include the following matters:
 - a. The duration of the permit and its expiration date.

- b. A description of the lands covered and the removal routes authorized.
 - c. A list of the permitted equipment.
 - d. A listing of all required precautionary measures, including any requirements involving driveways, isolation distances, fencing, maximum grades of slopes, hours and days of operation, maximum depth of excavations, final required contours, upon reclamation of the lands, and other requirements.
- (7) The permit issued by the Zoning Administrator shall terminate as of its stated expiration date, but the permit may be renewed, in the discretion of the Zoning Administrator, upon the filing of a subsequent application and if requirements under the previously-issued permit have been complied with. In considering whether to approve a renewal, the Zoning Administrator shall consider the matters specified above for the original issuance of the permit.
- (8) An applicant for a mineral removal permit shall, upon filing the application, pay the required fee as established by the Township Board.

Section 15.25 Commercial or Public Antennas and Towers and Certain Noncommercial Antennas and Towers. Commercial or public antennas and towers for communications, radio or television, unless exempt under other provisions of this Ordinance, and noncommercial or non-public antennas and towers subject to special land use approval, may be approved by the Planning Commission as a special land use upon compliance with all of the following requirements:

- (a) Any such antenna or tower shall be permanently secured to a stable foundation. It shall be grounded to protect against damage from lightning.
- (b) No part of the antenna or tower shall display any name, symbol, words or letters, advertising message, graphic representation or other written or pictorial matter visible from adjacent or nearby lands.
- (c) Any such antenna or tower shall be located only in a rear yard or side yard, unless otherwise permitted by the Planning Commission. It shall not be closer to a property line than its height, unless a lesser setback is permitted by the Planning Commission.
- (d) A commercial or public antenna or tower, including accessory buildings or structures, shall be fully enclosed by a sturdy fence, securely gated, and shall have such height as reasonably determined by the Planning Commission, unless it is exempt under Section 4.29.
- (e) The antenna or tower shall not be so located, constructed or used so as to have a serious adverse effect on adjacent or nearby land uses.

- (f) The antenna or tower and the construction, installation, operation, maintenance and repair thereof shall comply with all federal, state and local laws, ordinances and regulations.
- (g) Antennas and towers for commercial or public telecommunications services, including cellular telephone antennas and towers, shall unless otherwise exempt comply with all of the following requirements:
 - (1) Telecommunications antennas may be required by the Planning Commission to be located on an existing approved tower or other structure if such location is reasonably feasible and practical, in the opinion of the Planning Commission, based upon the facts concerning the existing tower, the area to be served by the proposed antenna and other relevant factors.
 - (2) A proposed tower for telecommunications services may be required to be designed, constructed and placed so as to accommodate both the applicant's equipment and also equipment for at least two additional users. The Planning Commission may require that such towers be designed and constructed so as to allow for the future rearrangement of equipment upon the tower, and to accept equipment mounted at varying heights on the tower.
 - (3) Towers for telecommunications services shall be designed so as to blend, insofar as possible, into the surrounding environment, through the use of color of equipment and architectural treatment, except in those cases where color of equipment may be dictated by state or federal agencies. Such towers shall be of a monopole design unless the Planning Commission determines that an alternative design would be satisfactory.
 - (4) The Planning Commission may require that telecommunications towers not be illuminated, unless required by state or federal agencies having jurisdiction. No signs or other written or graphic matter not related to safety or hazard warnings shall be permitted on any part of the tower or associated equipment or buildings, except that a name identification sign may be located on an associated building.
 - (5) The Planning Commission may require that telecommunications towers, or other related structures or buildings, be screened with landscaping, berms, walls or a combination of any of them.
 - (6) Towers for telecommunications services which are abandoned or unused shall be removed, along with any associated buildings, structures or equipment within six months of the ceasing of operations, unless a time extension is granted by the Zoning Administrator. One time extension, of up to six months, shall be permitted if the Zoning Administrator determines that the owner or former operator of the facility is taking active steps to accomplish its removal.

- (h) The Planning Commission in its reasonable discretion may impose other terms and conditions regulating the construction, installation, use, maintenance, repair and removal of any such antenna or tower. Such other terms and conditions may include, though need not be limited to, the following:
 - (1) The screening or buffering of an antenna or tower and any accessory buildings or structures.
 - (2) The timely removal of unused or unsafe antennas or towers or accessory buildings or structures.
 - (3) The prohibition on the construction or occupancy of dwellings or other buildings or the construction and use of other structures on the lands where the antenna or tower is located, or within a specified isolation distance from the antenna or tower.
 - (4) The preservation of existing trees and other existing vegetation not required to be removed for installation of an antenna or tower; the reasonable restoration of trees or other vegetation removed or destroyed during the construction or installation of an antenna or tower or accessory buildings or structures.
- (i) This section shall also apply to other antennas and towers that are not otherwise provided for in this Ordinance and that are not exempt under other provisions hereof.
- (j) Where the effect of any of the provisions of this section would be to prevent or preclude the operation of amateur radio antennas (being antennas operating for the purpose of receiving or transmitting communications by a radio station described in Section 153(q) of Title 47 of the U.S. Code) and licensed by the Federal Communications Commission, such amateur radio antenna may be approved by the Planning Commission as a special land use if it is reasonably demonstrated that the application of any of the provisions of this section would be to preclude or prevent the operation of such amateur radio antenna.

Section 15.26 Reserved.

Section 15.27 Restaurants with Drive-Up or Drive-Through Facilities.

- (a) There shall be sufficient stacking capacity for the drive-through portion of the restaurant so that traffic does not extend into the public right-of-way. At least ten stacking spaces for the service ordering station shall be provided. Stacking spaces shall be located so as not to interfere with vehicle circulation within the restaurant site.
- (b) In addition to other parking space requirements, at least three parking spaces shall be provided in close proximity to the exit of the drive-through portion of the

restaurant site, so as to allow for the temporary parking of the vehicles of customers who are waiting for delivery of orders.

- (c) Access driveways shall be located at least 25 feet from the nearest part of a street intersection or any other driveway.
- (d) Outdoor speakers and lighting for the drive-through portion of the restaurant shall be so located that sound transmission and glare of lighting toward adjacent properties is minimized.

Section 15.28 Motor Vehicle Service Stations.

- (a) Access driveways shall be located not less than 25 feet from the nearest part of a street intersection or any other driveway.
- (b) Pump islands shall be located at least 15 feet from any public right-of-way or lot line.
- (c) Where a motor vehicle service station adjoins residentially-zoned or used property, a solid wall or fence, six feet in height, or a substantial landscaped screen, six feet in height, shall be erected or planted along any common lot line. Such fence, wall or landscaping shall be maintained in good condition.
- (d) Inoperable vehicles left on the site shall, within two days, be stored within an enclosed building, or in an area screened by a solid fence not less than six feet in height. Such fence shall be maintained in good condition.
- (e) Storage of motor vehicle components and parts, trash, supplies or equipment outside of a building is prohibited.
- (f) All equipment and activities associated with vehicle repair operations, except those in incidental use, such as air hoses, and except for temporary outdoor checking or testing of vehicles, shall be kept within an enclosed building.

Section 15.29 Motor Vehicle Repair or Body Shops.

- (a) Access driveways shall be located not less than 25 feet from the nearest part of a street intersection or any other driveway.
- (b) Inoperable vehicles left on the site shall, within two days, be stored within an enclosed building, or in an area screened by a solid fence not less than six feet in height. Such fence shall be maintained in good condition.
- (c) Storage of motor vehicle components and parts, trash, supplies or equipment outside of a building is prohibited.

- (d) All equipment and activities associated with vehicle repair operations, except those in incidental use, such as air hoses, and except for temporary outdoor checking or testing of vehicles, shall be kept within an enclosed building.

Section 15.30 Mini Warehouses and Self-Storage Facilities.

- (a) Adequate driveways and safe and adequate areas for circulation of vehicle traffic on the site shall be provided.
- (b) Any receptacles or other facilities for the outdoor disposal of trash or debris shall be shielded from view from adjoining lands or streets, by walls, solid fences or substantial landscaping.
- (c) Outdoor lighting, if any, shall be so arranged as to avoid the glare of lighting onto adjacent and nearby lands or streets.

Section 15.31 Taverns or Bars Service Beer, Wine and Spirits.

- (a) The appropriate state license shall be obtained and shall be kept in force at all times; the Township Board shall give its approval of the use, if such approval is a condition of the state licensing of the use.
- (b) Adequate, safe and convenient driveways and off-street parking areas shall be provided.
- (c) In determining whether to approve the special land use, the Planning Commission shall consider the proximity of the proposed use to adjoining properties; the extent to which the proposed use harmonizes with adjoining commercial and other properties; the general effect of the use on adjoining and nearby lands, including residential lands in the vicinity.

Section 15.32 Open-Air Businesses.

- (a) Required yard setback areas shall not be used for the sale or display of merchandise.
- (b) A fence or wall may be required to be constructed along or near boundaries of the site, so as to keep trash, paper and other debris from being carried by wind to other lands.
- (c) All applicable County Health Department regulations shall be complied with.
- (d) That portion of the site used for vehicle parking and areas used for outdoor display or storage shall have a durable and dustless surface, and such areas shall be properly graded and drained so as to dispose of all surface water.
- (e) All outdoor lighting shall be shielded so as to prevent glare from lighting onto adjacent lands and nearby streets.

Section 15.33 Contractor Yards for Construction Equipment.

- (a) Adequate, safe and convenient driveways for the ingress and egress of construction equipment shall be provided.
- (b) Fencing of the site may be required.
- (c) The screening of all or portions of the site, from the view from adjacent lands, may be required, by means of solid fencing and/or substantial landscaping. Any such fencing or landscaping, once provided, shall be continuously maintained in good condition.
- (d) The portion of the site used for the driving and parking of construction vehicles and construction equipment shall be located a sufficient distance away from adjoining land so that there are no serious adverse effects upon such lands by reason of excessive noise, vibration, dust, dirt or other adverse effects.

Section 15.34 Commercial Kennels.

- (a) Buildings for the housing of animals shall not be located within 100 feet of any property line or street right-of-way.
- (b) The minimum lot area shall be two acres.
- (c) The kennel shall include facilities for the disposal of manure and refuse and shall have proper insect control methods. Fencing of the site may be required.
- (d) Outdoor areas for the keeping and exercise of animals shall be located a sufficient distance away from adjoining lands so as to avoid adverse effects upon such lands by reason of noise made by the animals and so as to avoid other adverse effects.

Section 15.35 Automatic and Self-Serve Vehicle Wash Facilities.

- (a) There shall be sufficient stacking capacity for the drive-through portion of the establishment, so as to assure that vehicle traffic does not extend into a public right-of-way. At least ten stacking spaces for an automatic wash facility shall be provided. For self-service establishments, each stall shall have at least two stacking spaces at the entrance and one stacking space at the exit.
- (b) Safe, adequate and convenient driveways and vehicle circulation areas shall be provided.
- (c) Wash bays for self-service establishments shall be located at least 50 feet away from any residential district.
- (d) Where such establishments adjoin residentially-zoned or residentially-used property, a solid wall or fence, six feet in height, shall be erected along or near the

common property line. Such fence shall be continuously maintained in good condition.

- (e) Outdoor lighting shall be shielded so as to prevent the glare of lighting onto adjacent or nearby lands or streets.

Section 15.36 Motels and Hotels.

- (a) The minimum lot area shall be four acres.
- (b) Safe, adequate and convenient access driveways shall be provided. Such driveways shall be located not less than 50 feet from the nearest part of any intersection or from any other driveway.
- (c) Areas and facilities for the temporary outdoor accumulation of refuse shall be shielded from the view from adjacent lands and streets by a solid fence or substantial landscaping. Such fencing or landscaping shall be continuously maintained in good condition.

Section 15.37 Theaters.

- (a) Adequate, safe and convenient access driveways shall be provided. Such driveways shall be located not less than 50 feet from the nearest part of any street intersection or any other driveway.
- (b) Theater buildings shall be set back at least 100 feet from any residential property line.
- (c) A traffic impact study may be required. Such study shall include proposed traffic circulation routes on the site and projected impacts of the theater operation, by reason of traffic and other effects, upon adjacent and nearby streets.
- (d) Outdoor lighting shall be shielded so as to prevent the glare of lighting onto adjacent or nearby properties or streets.

Section 15.38 Commercial Storage Warehouses.

- (a) The minimum lot area shall be two acres.
- (b) Adequate, safe and convenient driveways and vehicle circulation areas on the site shall be provided. Driveways shall be located at least 25 feet away from any street intersection and from other driveways.
- (c) Outdoor lighting shall be so located, and outdoor lights shall be so shielded, that lighting shall not adversely affect nearby lands or the adjacent streets.
- (d) Any receptacles or areas for the temporary outdoor storage of trash and debris shall be shielded from the view from adjacent lands and streets by a solid fence or

substantial landscaping. Any such fence or landscaping shall be continuously maintained in good condition.

Section 15.39 Warehousing, Storage and Transport of Fuels.

- (a) Warehousing, bulk storage and transport of propane, liquid petroleum, natural gas, fuel oil and similar fuels (not including gasoline) are subject to special land use approval by the Planning Commission.
- (b) All federal and state requirements for the location and construction of such facilities, and the installation of equipment, shall be complied with.
- (c) The proposed site shall be located on a state highway or a county primary road.
- (d) No storage shall take place closer than 100 feet from any property line, or such greater distance as may be required by applicable state or federal regulations. There shall be no storage of explosive, volatile or toxic chemicals in gaseous form closer than 250 feet from any existing dwelling or other place of occupancy.
- (e) Adequate and safe driveways and vehicle circulation areas on the site shall be provided.
- (f) Fencing, outdoor lighting, security arrangements and other appropriate conditions may be required.
- (g) Retail sales shall not be permitted on the premises.

Section 15.40 Salvage Yards and Recycling Stations.

- (a) The minimum lot area shall be ten acres.
- (b) The outdoor dismantling, disassembly or other work on used salvaged or recycling materials shall take place only behind a solid fence, enclosing all of such activity.
- (c) Outdoor storage of salvaged or recycling materials shall take place only within a completely enclosing, solid fence. Any such materials shall not be stacked higher than the height of the fence.
- (d) There shall be safe and adequate driveways to and from the salvage and recycling area.
- (e) The dismantling, disassembly or other work on salvage or recycling materials shall take place only at a location within the site that is a sufficient distance away from property lines, so that there are no adverse effects upon adjacent or nearby lands by reason of noise, vibration, contamination, drainage, fumes or other aspects of the use.

- (f) No pollution or contamination of land or groundwater shall take place. The applicant for the special land use shall propose measures in detail which will be used to prevent any pollution or contamination by reason of operation of the special land use.
- (g) Other requirements concerning screening and fencing may be required.
- (h) Applicants shall propose in detail measures to be taken so as to protect against fire hazards resulting from operation of the special land use.

Section 15.41 Bottling Plants and Dairies.

- (a) Safe and adequate driveways for trucks and other vehicles shall be provided.
- (b) All bottling facilities and related facilities and equipment shall be located a sufficient distance away from property lines so that there are no serious adverse effects upon adjacent and nearby lands by reason of noise, vibration or other impacts.

Section 15.42 Machine Shops and Tool and Die Shops.

- (a) The minimum lot area shall be one acre.
- (b) The principal building any accessory buildings and structures shall not be located within 100 feet of any residential district or the property line of any residential use.
- (c) Any outdoor repair or storage activities shall be adequately screened from the view from adjacent and nearby lands.

Section 15.43 Sport Shooting Range.

- (a) Sport shooting ranges shall be permitted as a special land use in the R-A and R-R Zoning Districts, subject to Planning Commission approval according to the standards set forth in this chapter, standards pertaining to site plan review, and the following standards:
 - (1) The sport shooting range shall be located on a parcel of at least 20 acres in area.
 - (2) No firearms shall be discharged in a location or at a stationary or moving target which is within 450 feet of any property line.
 - (3) Any discharge of firearms shall not result in bullets or other debris falling or landing onto any lot or parcel of land other than the lot or parcel authorized for the sport shooting range.
 - (4) Adequate off-street parking shall be provided.

- (5) Adequate sanitary facilities shall be provided.
 - (6) The facility shall be located or designed so that noise shall not be unduly disturbing to nearby residences or other uses.
 - (7) Appropriate safety measures shall be provided to ensure the safety of users of the sport shooting range, neighboring property owners, and persons on public rights of way.
- (b) In addition to those conditions which the Planning Commission is generally authorized to place upon special uses and upon site plan approval, the Planning Commission may place the following conditions upon sport shooting ranges:
- (1) Limits on hours, days, and seasons of operation.
 - (2) Limits on the number of persons who may use the range at any one time.
 - (3) Limits on the types of firearms used.

Section 15.44 Gunsmithing. Commercial gunsmithing, gun repair, gun restoration, custom gun making, and limited sales of guns may be permitted in any district as a special land use with approval of the Planning Commission. Special land use permission shall not be required, however, in non-residential zoning districts in which such activities are permitted by right. A special land use may be permitted hereunder if the following standards, in addition to the general standards of this chapter, are satisfied:

- (a) The gunsmithing activities shall be incidental and subordinate to a dwelling located on the premises.
- (b) All work shall be conducted entirely within the dwelling.
- (c) A bona fide inhabitant of the dwelling shall be an owner of the gunsmithing business.
- (d) Not more than one person who is not a bona fide resident of the dwelling may be employed at the dwelling.
- (e) No sign advertising the gunsmithing activity shall be displayed on the premises.
- (f) Machinery used shall not be noticeably audible outside of the property.
- (g) Customers and clients shall be served on an appointment-only basis.
- (h) The operator shall comply with all state and federal licensing requirements.
- (i) Limited sales of guns, ammunition and related equipment may be permitted, subject to restrictions and conditions approved by the Planning Commission. Such limitations and conditions may include restrictions on size of inventory;

hours of operation; regulation or prohibition of advertising; frequency of sales; and other regulations for the purpose of assuring that sales of guns, ammunition and related equipment will not cause adverse effects upon adjacent or nearby lands.

- (j) Unless a special land use for a sport shooting range is obtained, the outdoor firing of guns in connection with the gunsmithing business shall be allowed only to the extent necessary for testing, sighting, and similar purposes, and only if the following standards are satisfied:
 - (1) The property is located in an R-A or R-R Zoning District.
 - (2) No firearm shall be discharged in a location or at a stationary or moving target which is within 200 feet of any property line.
 - (3) The target and firing line area shall fully comply with the highest recommended standards of the National Rifle Association, or equivalent standards.
 - (4) Appropriate safety measures shall be provided to ensure the safety of users of the range, neighboring property owners, and persons on public rights-of-way.
 - (5) Firing shall only occur during daylight hours.

Section 15.45 Private Shooting Range.

- (a) Private shooting ranges shall be permitted as a special land use in the R-A and R-R Zoning Districts, subject to Planning Commission approval according to the standards set forth in this chapter, the standards pertaining to site plan review and the following standards and minimum requirements:
 - (1) The private shooting range shall be located on a parcel of at least 20 acres in area.
 - (2) No firearms shall be discharged in a location or at a stationary or moving target which is within 450 feet of any property line.
 - (3) Any discharge of firearms shall not result in bullets or other debris falling or landing onto any lot or parcel of land other than the lot or parcel authorized for the private shooting range.
 - (4) If guests, visitors, invitees or other persons who are not the owners of the property are on the premises for the purpose of participating in the private shooting range, for observing shooting or for related purposes, adequate off-street parking shall be provided.

- (5) The private shooting range shall be located and designed so that noise shall not be unduly disturbing to nearby residents or other adjacent or nearby uses.
 - (6) Appropriate safety measures shall be provided so as to ensure the safety of users of the private shooting range, neighboring property owners and other persons who may be affected.
 - (7) The private shooting range shall include berms, earthen mounds, or other physical changes in the land so as to provide an earthen backstop for targets or otherwise to shield all or a portion of a shooting area, and shall include such other safety measures as are appropriate to the nature, location and extent of the private shooting range and the shooting activities occurring in connection therewith.
- (b) In addition to the conditions which the Planning Commission is generally authorized to place upon special land uses and upon site plan approval, the Planning Commission may impose the following conditions upon private shooting ranges:
- (1) Limits on the hours, days and seasons of operation.
 - (2) Limits on the number of persons who may use the private shooting range at any one time.
 - (3) Limits on the types of firearms used.
 - (4) Regulations on the level of noise caused by the shooting activity or occurring in connection therewith.
 - (5) Regulations on the specific location and placement of the private shooting range, within the overall premises.
 - (6) The location and extent of off-street parking area, if required.
 - (7) The nature, location and extent of earthen berms or other mounded up earth on the premises, to be developed and used in connection with the shooting activity and for safety and related purposes associated therewith.

Section 15.46 Application of Sewage Sludge. The application of sewage sludge to land within the Township, either to the surface or by injection below the surface, shall not be permitted unless the following provisions are complied with:

- (a) No permit shall be issued to any party requesting to apply sewage sludge to land within the Township until application to the Planning Commission for a special use permit has been approved. Said application shall include the following information and fees:

- (1) A fee of \$250 for each parcel of land to which the sewage sludge will be applied.
 - (2) A map of the parcel(s) of land to which the sewage sludge will be applied, depicting all buildings, streets, drainage facilities, municipal water supplies, domestic wells, surface waters, property lines, and natural features within 2,000 feet thereof, which map shall show contour elevation readings, at five foot intervals along the perimeter of the subject parcel.
 - (3) A written statement describing who will be responsible for managing the sewage sludge application (including name, address and telephone number), who has prepared the sewage sludge (including name, address and telephone number), the precise location where it will be applied, the method by which it will be applied, the amount to be applied, a reasonable estimate of the time application will begin and end, the person or persons responsible for the physical application of the sewage sludge to the property, and the expected benefits of sewage sludge application to the property.
 - (4) A written statement setting forth the state and federal laws and regulations which govern the sewage sludge application and describing all permits and approvals obtained by the person(s) responsible for applying the sewage sludge. Copies of all permits and approvals must be attached to the written statement.
 - (5) A copy of the agreement between the owner(s) of the property to which the sewage sludge will be applied and the person(s) responsible for applying the sewage sludge.
- (b) The following conditions shall be complied with:
- (1) Sewage sludge nutrient content shall be controlled so that the level of nitrogen on the site of the application shall not overload the nutrient capacity of the site and pose an unacceptable risk of nitrates leaching into the groundwater.
 - (2) In the case of application to farmland, the sewage sludge application shall be limited to the amount of sewage sludge which meets but does not exceed the nutritional requirements of the proposed crop to be grown on the property to which the sewage sludge is applied.
 - (3) To prevent the spread of disease and reduce offensive odors, all sewage sludge must be treated with a process which significantly reduces the pathogens naturally occurring in the sewage sludge prior to application.
 - (4) The application of the sewage sludge shall be managed so as to minimize offensive odors, including the observance of isolation distances equal to or

greater than those prescribed by the Michigan Department of Natural Resources.

- (5) Sewage sludge shall not be applied where the water table is less than 30 inches from the soil surface at the time of sewage sludge application.
 - (6) Sewage sludge shall not be applied to frozen or snow covered soil.
 - (7) Sewage sludge application shall not result in the degradation of the quality of useable aquifers.
 - (8) All required state and federal permits shall be obtained prior to the special use being granted.
 - (9) The property where the sewage sludge is applied shall be monitored to ensure compliance with this Ordinance and all applicable federal and state laws, regulations and restrictions.
- (c) The Planning Commission shall examine the proposed plans for sewage sludge application for compliance with this Ordinance. If the proposed plans are found to be in compliance with this Ordinance, the Planning Commission shall approve the submitted plans. If the proposed plans are found not to be in compliance with this Ordinance, the Planning Commission may disapprove of the proposed use or approve subject to conditions as thereafter provided for.
- (d) Upon approval of the application, the Planning Commission shall inform the Township Board of its action and of any special conditions imposed.

Section 15.47 Sawmills.

- (a) The minimum lot area shall be five acres.
- (b) All outdoor activities shall be substantially enclosed behind a solid fence, subject to further or more detailed requirements by the Planning Commission.
- (c) All sawmill activity, and the delivery and removal of timber, lumber and other raw materials or products shall take place only at such location as will avoid any serious adverse impact on adjacent or nearby lands or the public streets.
- (d) A traffic impact study may be required.
- (e) The Planning Commission may include special provisions relating to control of noise, outdoor lighting, off-street parking area; control of sawdust and other debris; and adequate and safe driveways and vehicle circulation areas.

Section 15.48 Light Industrial Uses Not Otherwise Permitted in the District.

- (a) Light industrial uses not listed as permitted uses in the I District may be permitted if approved by the Planning Commission as a special land use.
- (b) In considering whether to approve such other light industrial uses, the Planning Commission may impose conditions and requirements relating to driveways, outdoor lighting, screening and buffering, isolation distance from other uses and may impose other requirements for the purpose of avoiding adverse impacts upon adjacent or nearby lands.

Section 15.49 Storage of Certain Commercial Motor Vehicles. Storage of commercial motor vehicles and other equipment used in and for land services, where no business activities are conducted on the premises, and the storage of other large commercial motor vehicles, including semi-tractor trailers, where no business activities are conducted on the premises. Such storage may including storage buildings and other structures for the enclosing of such vehicles and other equipment. The special land use shall be subject to the following minimum conditions:

- (a) The size and placement of buildings shall be subject to the approval of the Planning Commission.
- (b) There shall be adequate and convenient access to and from a public or private street.
- (c) There shall be sufficient distance between any buildings used in the special land use and dwellings and other residential uses, so as to avoid any serious adverse effects upon such residential uses.
- (d) All required licenses and other permits, for the business or activity involved in the special land use, shall be in full force and effect at all times.
- (e) All vehicles, equipment and supplies shall be stored entirely inside a building or buildings, except for temporary or interim parking of vehicles and equipment, unless in the approval of the special land use the Planning Commission permits outdoor storage or parking of such vehicles or equipment.
- (f) There shall be no signs on the premises advertising the use or activity for which the special land use is granted.
- (g) The Planning Commission may impose buffering and landscaping requirements, so as to avoid serious adverse effects on adjacent or nearby lands.
- (h) Except for the storage and parking of vehicles and equipment, and except for uses accessory thereto, there shall be no business or commercial activity carried out on the premises.
- (i) The Planning Commission may impose other terms and conditions upon the special land use.

- (j) All buildings and other structures requiring building permits shall comply with all applicable provisions of the Township building code.

Section 15.50 Sexually Oriented Businesses. There are some uses which, because of their very nature, are recognized as having serious objectionable operational characteristics, particularly when several of them are concentrated under certain circumstances thereby having a deleterious effect upon adjacent areas. Special regulation of these uses is necessary in order to insure that these adverse effects will not contribute to the blighting or downgrading of the surrounding area. These special regulations are itemized in this section. The primary control or regulation is for the purpose of preventing a concentration of these uses in any one area of the Township, to minimize and/or prevent the well documented adverse secondary effects of such uses, insure the integrity of the Township's residential and agricultural areas, and to protect the integrity of churches, synagogues or other places of religious worship, schools, licensed day care facilities, parks and playgrounds, and other areas where juveniles congregate in the Township. Nothing in this section shall be construed as permitting or allowing a violation of any state or federal law.

The provisions of this section are not intended to condone or legitimize the distribution of obscene material or legitimize activities which are prohibited by other sections of the Spencer Township zoning ordinance or other Township ordinances.

The provisions of this section are not intended to suppress any activity protected by the First Amendment of the United States Constitution or by the Michigan Constitution, but are intended to provide content neutral regulations that address the adverse secondary effects of sexually oriented businesses.

- (a) **Definitions.** As used in this section, the following terms shall have the indicated meanings:

- (1) **Adult Bookstore.** An establishment having as a substantial or significant portion of its stock in trade, books, magazines, and other periodicals which are distinguished or characterized by their emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas," as defined herein, or an establishment with a segment or section devoted to the sale or display of such material.
- (2) **Adult Cabaret.** A nightclub, bar, restaurant or similar commercial establishment, whether or not alcoholic beverages are served, which regularly features one or more of the following:
 - a. Persons who appear nude or in a state of nudity or semi-nudity.
 - b. Live performances which are characterized by the exposure of specified anatomical areas or by specified sexual activities.
 - c. Films, motion pictures, video cassettes, slides or other photographic reproductions which are characterized by the

depiction or description of specified sexual activities or specified anatomical areas.

- d. Persons who engage in lewd, lascivious or erotic dancing or performances that are intended for the sexual interests or titillation of an audience or customers.
- (3) **Adult Entertainment.** Any exhibition, display or dance which involves exposure to view of specified anatomical areas or specified sexual activities.
 - (4) **Adult Live Entertainment Theater.** An enclosed building for presenting live entertainment involving the use of strip dancers, naked individuals, individuals who wear see-through clothing which permits the view of “specified anatomical areas,” individuals who are partially clothed and partially unclothed so as to permit the view of “specified anatomical areas,” or individuals conducting “specified sexual activities.”
 - (5) **Adult Motion Picture Theater.** An enclosed building used for presenting motion picture films, video cassettes, cable television, or any other such visual media, distinguished or characterized by an emphasis on matter depicting, describing or relating to “specified sexual activities” or “specified anatomical areas,” as defined in this Ordinance, for observation by patrons therein.
 - (6) **Adult Video Store.** An establishment having a substantial or significant portion of its stock in trade in video or digital material (in any form) for sale or rental which is distinguished or characterized by an emphasis on matter depicting, describing, or relating to “specified sexual activities” or “specified anatomical areas,” as defined herein. An establishment may have other categories of items for sale which are not characterized by their emphasis on matter depicting, describing or relating to “specified sexual activities” or “specified anatomical areas,” as defined herein, but still be classified as an adult video store.
 - (7) **Employee.** Any person who works or performs in and/or for a sexually oriented business, including the manager, regardless of whether or not said person is paid a salary, wage or other compensation by the manager or owner of said business.
 - (8) **Entertainer.** Any person who performs any entertainment, exhibition or dance of any type within an adult cabaret, whether or not such person or anyone else charges or accepts a fee for such entertainment, exhibition, or dance.
 - (9) **Escort.** A person who, for consideration, agrees or offers to act as a companion, guide, or date for another person, or who agrees or offers to

privately model lingerie, to privately perform a striptease for another person, or to otherwise display specified sexual activities or specified anatomical areas.

- (10) **Escort Agency.** A person or business association who furnishes, offers to furnish, or advertises to furnish escorts as one of its primary business purposes for a fee, tip, or other consideration.
- (11) **Manager.** An employee, other than the licensee, who is employed by a sexually oriented business to act as a manager or supervisor of employees or who is otherwise responsible for the operation of, or in charge of, a licensed sexually oriented business.
- (12) **Massage.** Massage shall mean a method of treating external parts of the body for remedial or hygienic purposes, consisting of rubbing, stroking, kneading, adjusting or tapping with the hand or any instrument, electric, magnetic or otherwise, with or without supplementary aids.
- (13) **Massage Parlor.** Any establishment having a fixed place of business where massages are administered solely or in combination with any other services or activity for pay, including but not limited to massage parlors, sauna baths, and steam baths. This definition shall not be construed to include a hospital, nursing home, medical clinic, or the office of a physician, surgeon, chiropractor, osteopath, or physical therapist duly licensed by the State of Michigan. This definition shall not be construed to include establishments where massage is provided only by persons who have successfully completed not less than 500 hours of training from a recognized school or state accredited college or university or has been approved by the National Certification Board for Therapeutic Massage and Bodywork or is certified as a massage therapist by the American Massage Therapy Association. This definition shall also not be construed to include barber shops, beauty salons or athletic facilities in which massages are administered only to the scalp, the face, the neck, the shoulder, or the back above the waist. This definition shall also not be construed to include a nonprofit organization operating a community center, swimming pool or tennis court, or other educational, cultural, recreational, and athletic facilities for the welfare of the residents of the area.
- (14) **Nude Model Studio.** Any place where a person who appears nude or in a state of nudity or displays specified anatomical areas or specified sexual activities is provided for consideration to be observed, sketched, drawn, painted, sculpted, photographed or similarly depicted by other persons.
- (15) **Nudity or State of Nudity.** The display of any specified anatomical areas.

- (16) **Operator.** All persons who own, operate, direct, oversee, conduct, maintain, or effectively exert management control or authority over a sexually oriented business or its affairs, without regard to whether such person(s) owns the premises in which the sexually oriented business does business. An operator effectively exerts management control or authority when he or she actually does, or is in a position to, participate in the management, direction or oversight of a sexually oriented business or its affairs, whether or not such person's name appears on any public record filed with any government agency in connection with a sexually oriented business or any parent company or affiliate.
- (17) **Owner.** A person owning, directly or beneficially, any interest or part interest, however identified, in a sexually oriented business.
- (18) **Peep Booth.** A viewing room, other than a private room not authorized for admittance by patrons, of less than 150 square feet of floor space upon the premises of a sexually oriented business where there is exhibited photographs, films, motion pictures, video cassettes, or other video reproductions, slides or other visual representation which depict or describe specified sexual activities or specified anatomical areas.
- (19) **Recognized School.** Recognized school shall mean any school or educational institution which: teaches the theory, method, profession, or, work of massage, and; requires 500 hours before the student receives a diploma or certificate of graduation for having completed the course, and; is either licensed to teach massage and to do business as a school or educational institution in the State of Michigan, or is approved by the American Massage Therapy Association (AMTA).
- (20) **Sexually Oriented Business.** An adult arcade, adult bookstore or adult video store, adult cabaret, adult motion picture theater, adult live entertainment theater, escort agency, massage parlor or nude model studio. This definition shall include the conversion of an existing business, whether or not a sexually oriented business, to a sexually oriented business.
- (21) **Specified Anatomical Areas.** Specified anatomical areas are defined as less than completely and opaquely covered human genitals, the public region including pubic hair, the buttock, the female breast below the top of the areola and male genitals. The term "specified anatomical areas" also includes male genitals in a discernibly turgid state even if completely and opaquely covered.
- (22) **Specified Sexual Activities.** Specified sexual activities include any of the following:

- a. The fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or female breasts.
- b. Sexual acts, actual or simulated, including intercourse, oral copulation, or sodomy.
- c. Human genitals in a state of sexual stimulation or arousal.
- d. Masturbation, actual or simulated.

(23) **Substantial or Significant Portion.** An establishment will be deemed to have a “substantial or significant portion” of its stock in trade or services if it meets at least one of the following criteria: (a) twenty five percent or more of the stock, materials or services are distinguished or characterized by an emphasis on matter depicting, describing, or relating to “specified sexual activities” or “specified anatomical areas,” as defined herein; or (b) twenty five percent or more of the usable floor area of the building is used for the sale, display or provision of materials or services distinguished or characterized by an emphasis on matter depicting, describing, or relating to “specified sexual activities” or “specified anatomical areas,” as defined herein.

(b) **Location Restrictions.**

- (1) A sexually oriented business shall only be operated within areas zoned as C-2 General Commercial District or I Industrial District.
- (2) A sexually oriented business may not be operated within 300 feet of:
 - a. A church, synagogue or regular place of worship.
 - b. A public or private elementary or secondary school or public school academy.
 - c. Any residential structure within or without a zoned area.
 - d. A public park.
 - e. A public library.
 - f. A child care center, family day care home, or group day care home.
- (3) A sexually oriented business may not be operated within 300 feet of another sexually oriented business.
- (4) A sexually oriented business may not be operated in a building or structure containing another sexually oriented business.

- (5) For purposes of this section, measurement shall be made in a straight line, without regard to intervening structures or objects, from the nearest portion of the building or structure used as a part of the premises where a sexually oriented business is conducted, to the nearest property line of the premises of a church, synagogue, regular place of worship, public or private elementary or secondary school, public school academy, public park or library, child care center, family day care home, group day care home, residence, or another sexually oriented business.
 - (6) The location of the sexually oriented business shall not be contrary to any program of neighborhood conservation nor interfere with any program of urban renewal.
- (c) **Information Submission.** In addition to the information and documents required to be submitted with an application for a special land use in accordance with the requirements of this chapter, an applicant for a special land use to establish a sexually oriented business must submit the following:
- (1) A floor plan of the premises showing the following:
 - a. Location and dimensions of any manager's station, demonstrating that there is an unobstructed view from at least one of the manager's stations of every area of the premises to which any patron is permitted access for any purpose, excluding restrooms.
 - b. Location of all overhead lighting fixtures.
 - c. Identification of any portion of the premises in which patrons will not be permitted.
 - d. The location of any stage.
 - e. Identification of the use of each room or other area of the premises.
 - (2) A current certificate and straight line drawing, prepared within 30 days prior to the application, by a land surveyor depicting the property lines and the structures containing any sexually oriented business within 300 feet of the closest exterior wall of the structure in which the applicant business will be located and depicting the property line of any church, synagogue, regular place of worship, public or private elementary or secondary school, public school academy, child care center, family day care home, group day care home, public park or library, or residence within 300 feet from the closest exterior wall of the structure in which the applicant business will be located.
- (d) **Application to be Complete.** The Township Clerk shall not accept any application that is not complete in every detail. In the event that the Township Clerk determines that the applicant has improperly completed the application, the

applicant shall be promptly notified of such fact and permitted ten days to properly complete the application.

- (e) **Limit on Reapplication.** No application for a sexually oriented business which has been denied in whole or in part shall be resubmitted for a period of one year from the date of the denial, except on the grounds of new evidence not previously available or proof of changed conditions.
- (f) **Conditions Requiring Rejection of Special Land Use Application.** The Planning Commission shall not approve a special land use application for a sexually oriented business if it finds one or more of the following to be true:
 - (1) An applicant is under 18 years of age.
 - (2) An applicant is overdue in payment to the Township of taxes, fees, fines or penalties assessed against the applicant or imposed upon the applicant in relation to a sexually oriented business.
 - (3) An applicant has failed to provide information required by the Spencer Township zoning ordinance or has knowingly answered a question or request for information falsely.
 - (4) The premises to be used for the sexually oriented business has not been approved by the Building Inspector and the zoning enforcement officer as being in compliance with applicable laws and ordinances.
 - (5) The applicant or a director, officer, partner, member, principal manager or chief executive officer of the applicant has had a sexually oriented business license or adult business license revoked or suspended within one year prior to the date of application.
 - (6) The applicant or a director, officer, partner, member, principal manager or chief executive officer of the applicant has operated a sexually oriented business or adult business which was determined to be a public nuisance under laws of any state, county, city, village or township within one year prior to the date of application.
 - (7) The applicant is not in good standing or authorized to do business in Michigan.
 - (8) The application fee has not been paid.
 - (9) An application of the proposed sexually oriented business is in violation of or is not in compliance with, any of the provisions of this section.
 - (10) The applicant has been convicted of any of the following criminal offenses in any jurisdiction within the last ten years:

- a. Prostitution, procuring a prostitute, or solicitation of a prostitute.
- b. Sale, distribution or display of obscene material.
- c. Sale, distribution or display of material which is harmful to minors.
- d. Soliciting, procuring or aiding and abetting an unlawful sexual performance by a minor.
- e. Possession, sale or distribution of child pornography.
- f. Public lewdness.
- g. Indecent conduct with a child.
- h. Sexual assault or rape.
- i. Sexual solicitation of a child.
- j. Contributing to the delinquency of a minor.
- k. Harboring a runaway child.

(g) **Exterior Structural Requirements.** All sexually oriented businesses must meet the following exterior structural requirements:

- (1) The merchandise or activities of the sexually oriented business may not be visible from any point outside the business.
- (2) The exterior portion of the sexually oriented business may not utilize flashing lights, or any words, lettering, photographs, silhouettes, drawings, or pictorial representations of any manner.
- (3) It shall be unlawful for the owner or operator of a sexually oriented business to allow exterior portions of the sexually oriented business to be painted any color other than a single neutral color.

(h) **Interior Structural Requirements.**

- (1) The interior of the premises shall be configured in such a manner that there is an unobstructed view from a manager's station of every area of the premises to which any patron is permitted access for any purpose excluding restrooms. Restrooms may not contain video reproduction equipment. If the premises has two or more manager's stations designated, then the interior of the premises shall be configured in such a manner that there is an unobstructed view of each area of the premises to which any patron is permitted access for any purpose excluding restrooms

from at least one of the manager's station. The view required in this subsection must be by direct line of sight from the manager's station.

- (2) A manager's station may not exceed 32 square feet of floor area.
- (3) No alteration to the configuration or location of a manager's station may be made without the prior approval of the Township zoning enforcement officer.
- (4) Viewing rooms or peep booths must be separated from other viewing rooms or peep booths by a solid, opaque, uninterrupted physical divider which is a minimum one inch thick and serves to prevent physical contact between patrons.
- (5) No private viewing rooms or booths shall be constructed unless one side is always open to a central public area. No door shall be placed on any viewing room or peep booth, and no holes or openings shall be placed or allowed to remain in the wall between any two adjacent viewing rooms or peep booths.

(i) **Signage.**

- (1) It shall be unlawful for the owner or operator of any sexually oriented business or any other person to erect, construct, or maintain any sign for the sexually oriented business other than the one primary sign and one secondary sign, as provided herein.
- (2) Primary and secondary signs shall contain no photographs, silhouettes, drawings or pictorial representations of any manner, and may contain only the name of the enterprise.
- (3) Each letter forming a word on a primary or secondary sign shall be of solid color, and each such letter shall be the same print type, size and color. The background behind such lettering on the display surface of a primary or secondary sign shall be of a uniform and solid color.
- (4) Primary signs shall have no more than two display surfaces. Each such display surface shall be a flat plane, rectangular in shape.
- (5) Secondary signs shall have only one display surface. Such display surface shall:
 - a. Be a flat plane, rectangular in shape.
 - b. Not exceed 20 square feet in area.
 - c. Not exceed five feet in height and four feet in width.

d. Be affixed or attached to a wall or door of the enterprise.

- (6) The requirements of this section are intended to supplement the requirements and limitations of other signage requirement contained in the zoning ordinance. In the event of contradictions or inconsistencies, the stricter requirement shall govern.

(j) Lighting Requirements.

- (1) All off-street parking areas and premises entries of sexually oriented businesses shall be illuminated from dusk to closing hours of operation with a lighting system which provides an average maintained horizontal illumination of one foot candle of light on the parking surface and/or walkways. This required lighting level is established in order to provide sufficient illumination of the parking areas and walkways serving the sexually oriented business to help ensure the personal safety of patrons and employees and to reduce the incidence of vandalism and other criminal conduct.
- (2) The premises of all sexually oriented businesses, except adult motion picture theaters, shall be equipped with overhead lighting fixtures of sufficient intensity to illuminate every place to which patrons are permitted access to provide an illumination of not less than two foot candle of light as measured at the floor level.
- (3) Adult motion picture theaters shall be equipped with overhead lighting fixtures of sufficient intensity to illuminate every place to which patrons are permitted access to provide an illumination of not less than one foot candle of light as measured at the floor level.

(k) Age Requirement Regulations.

- (1) It shall be unlawful to allow a person who is younger than 18 years of age to enter or be on the premises of a sexually oriented business at any time that the sexually oriented business is open for business.
- (2) It shall be the duty of the operator of each sexually oriented business to ensure that an attendant is stationed at each public entrance to the sexually oriented business at all times during such sexually oriented business regular business hours. It shall be the duty of the attendant to not allow any person under the age of 18 years to enter the sexually oriented business. It shall be presumed that an attendant knew a person was under the age of 18 unless such attendant asked for and was furnished a valid operator's, commercial operator's, or chauffeur's driver's license; or a valid personal identification certificate issued by the State of Michigan verifying that such person is 18 years of age or older.

- (1) **Hours of Operation.** No sexually oriented business shall operate between the hours of 2:00 a.m. and 8:00 a.m.
- (m) **Standards of Conduct.** The following standards of conduct must be adhered to on the premises of the sexually oriented business by the all employees, managers, officers and agents of any sexually oriented business:
 - (1) No employee or entertainer mingling with the patrons or serving food or drinks shall be unclothed or in such attire, costume or clothing so as to expose to view any specified anatomical areas.
 - (2) No employee or entertainer shall engage in, encourage or knowingly permit any specified sexual activities on the premises of the sexually oriented business.
 - (3) No employee or entertainer while in view of the patrons on the licensed premises shall be unclothed or in such attire, costume or clothing so as to expose any specified anatomical areas, except upon a stage which shall be fixed and immovable at least 18 inches above the immediate floor level and removed at least six feet from the nearest patron or behind a solid, uninterrupted physical barrier which completely separates the entertainer from any patrons. This barrier must be a minimum of one-quarter inch thick and have no openings between the entertainer and any patrons.
 - (4) There shall be posted and conspicuously displayed in the common areas of each place offering adult entertainment a list of food and drink prices.
 - (5) Any tips for entertainers shall be placed by a patron into a tip box which is permanently affixed in the sexually oriented business and no tip may be handed directly to an entertainer. A business that desires to provide for such tips from its patrons shall establish one or more containers to receive tips. Any physical contact between a patron and an entertainer is strictly prohibited.
 - (6) No adult entertainment occurring on the premises shall be visible at any time from the outside of the premises.
 - (7) An owner, manager or an employee shall not knowingly allow the possession, use, or sale of controlled substances on the premises.
 - (8) An owner, manager, or an employee shall not knowingly allow prostitution on the premises.
 - (9) An owner, manager, or an employee shall not knowingly allow any live specified sexual act to occur in or on the licensed premises.
 - (10) An owner, manager, or an employee shall not illegally offer for sale or illegally allow to be consumed or possessed upon the licensed premises, or

upon any parking areas, sidewalks, walkways, access ways or grounds of the licensed premises, narcotics or dangerous drugs or fermented malt, malt, vinous or spirituous beverages.

- (11) At least one manager must be on duty and situated in each manager's station at all times that the business is open to the public.
 - (12) All doors to public areas on the premises must remain unlocked during business hours.
 - (13) It shall be the duty of the owner, and it shall also be the duty of any agents and employees present in the premises to ensure that any view area or peep booth remain unobstructed by any doors, curtain, drapes, walls, merchandise, display racks or other materials at all times and to ensure that no patron is permitted access to any area of the premises which has been designated as an area in which patrons will not be permitted.
 - (14) No viewing room or peep booth may be occupied by more than one person at any one time.
- (n) **Massage Parlors.** No establishment, regardless of whether it is a public or private facility, shall operate as a massage parlor or any similar type business where any physical contact with the recipient of such services is provided unless the following standards of conduct are adhered to:
- (1) The premises of each massage parlor may be inspected by law enforcement personnel or by the Township Building Inspector during business hours and at other reasonable times to ensure compliance with this Ordinance.
 - (2) All persons offering massages in a massage parlor shall, not less than five months and not more than six months following the issuance of a special land use approval for a massage parlor, file with the Township Clerk a statement from a licensed medical doctor or osteopath certifying or recertifying that such person has been examined within the 30 days immediately prior thereto and has been found to be free from all communicable or contagious diseases, including but not limited to, sexually transmitted diseases. Failure to comply with this requirement shall constitute grounds for revocation of special land use approval.
 - (3) No employee of a massage parlor, or any other person associated with a massage parlor, on the premises of a massage parlor, may offer or engage in sexual activity.
 - (4) Each massage parlor and massagist shall comply with the following standards:

- a. No patron shall be serviced who is infected with any fungus or other skin infection; nor shall any service be performed on a patron exhibiting skin inflammation or eruptions.
- b. All massagists shall wash his or her hands in hot water with soap before giving any service or treatment to each separate patron.
- c. All towels, tissues, sheets or other coverings shall be used singularly for each patron and discarded for laundry or disposal immediately after use.
- d. Nondisposable tools of the trade shall be disinfected after use upon each patron.
- e. In any establishment in which massage services are rendered to members of the same sex at any one time, such persons of the same sex may be placed in a single, separate room, or the operators of the massage parlor may elect to place such persons of the same sex in separate enclosed rooms or booths having adequate ventilation to an area outside said room or booth while massage services are being performed.
- f. No massage or massage service may be carried on within any cubicle, room, booth, or area within a massage parlor which is fitted with a door capable of being locked.
- g. Adequate bathing, dressing, locker and toilet facilities shall be provided for patrons. A minimum of one tub or shower, one dressing room containing a separate locker for each patron to be served, which locker shall be capable of being locked, as well as a minimum of one toilet and wash basin, shall be provided by every massage parlor; provided, however, that if male and female patrons are to be served simultaneously at the establishment, separate bathing, a separate massage room, or rooms, separate dressing and separate toilet facilities shall be provided for male and female patrons.
- h. All walls, ceiling, floors, pools, showers, bathtubs, steam rooms, and all other physical facilities for the establishment must be in good repair and maintained in a clean and sanitary condition. Wet and dry heat rooms, steam or vapor rooms, steam or vapor cabinets, shower compartments, and toilet rooms shall be thoroughly cleaned each day the business is in operation. Bathtubs and/or showers shall be thoroughly cleaned after each use.

- (5) Non-transparent uniforms or garments covering the torso shall be worn by massagists at all times while attending patrons. Such uniforms or garments shall be of a washable material and shall be kept in a clean condition.
- (o) **Exemptions from Enforcement.** It is a defense to prosecution under this section that a person appearing in a state of nudity or semi nudity did so in a modeling class operated:
 - (1) By a proprietary school, licensed by the State of Michigan or a college, junior college, or university supported entirely or partly by taxation; or
 - (2) By a private college or university which maintains and operates educational programs in which credits are transferable to a college, junior college, or university supported entirely or partly by taxation.
- (p) **Reporting of Violations.** Any owner, manager or employee shall immediately report to the Township Clerk and to the Kent County Sheriff's Office any violation of this section or any breach of the peace or unlawful or disorderly act, conduct or disturbance committed on the licensed premises, including any parking area or adjoining area under the control or management of the owner, provided that the owner, manager or employee knew or should have known of such violation of law.

CHAPTER 16

SITE CONDOMINIUMS

Section 16.01 Purpose. Tracts of land that are developed and sold as site condominium developments are not subject to regulation under the Michigan Land Division Act of 1967. The Township determines it is in the best interest of public health, safety, and welfare to regulate the creation of site condominium developments to assure that these developments will not adversely affect the occupants thereof, adjacent properties, or the Township.

Section 16.02 Commencement of Construction, Issuance of Permits. No construction, grading, tree removal, soil stripping or other site improvements or changes shall be commenced for a site condominium project until:

- (a) A final site condominium project plan has been approved by the Township Board.
- (b) All conditions to commencement of construction imposed by the Township Board have been met.
- (c) All applicable approvals or permits from appropriate county and state review and enforcement agencies have been obtained for the project.

Section 16.03 Definitions. For purposes of this article, the following words and phrases are defined as follows:

- (a) “Building envelope” means the area of a site condominium unit within which the principal building or structure may be constructed, together with any accessory structures, as described in the master deed for the site condominium project. In a single family residential site condominium project, the building envelope refers to the area of each condominium unit within which the dwelling and any accessory structures may be built.
- (b) “Site condominium project” means a project consisting of not less than two site condominium units established in compliance with the Condominium Act, Act 59 of the Public Acts of Michigan of 1978, as amended.
- (c) “Site condominium project plan” means the plans, drawings and information prepared for a site condominium project as required by Section 66 of the Condominium Act and as required by this article for review of the project by the Zoning Administrator, Planning Commission and the Township Board.
- (d) “Site condominium unit” means a condominium unit established in compliance with the Condominium Act which consists of an area of vacant land and a volume of surface or sub-surface vacant air space, designed and intended for separate ownership and use as described in the site condominium project master deed, and within which a building or other improvements may be constructed by the condominium unit owner. For purposes of determining compliance with the applicable requirements of the zoning ordinance (including, without limitation,

height, area, yard, and density requirements) or with other applicable laws, ordinances or regulations, a “site condominium unit” shall be considered to be the equivalent of a “lot.”

- (e) Except as otherwise provided by this article, words or phrases shall have the meanings as defined in the Condominium Act.

Section 16.04 Application for Site Condominium Approval. An application for site condominium approval shall include the following information:

- (a) A condominium project plan which includes the documents and information required by Section 66 of the Condominium Act, and which includes the following information to the extent not included in such plans:
 - (b) The information required for site plan review by Section 17.03 of this Ordinance.
 - (c) Layout and dimensions of each site condominium unit, and the building envelope for such unit.
 - (d) Written approval of the proposed design and location of the entrance to the site condominium from the County Road Commission or Michigan Department of Transportation.
 - (e) The use and occupancy restrictions and maintenance provisions for all general and limited common elements that will be included in the master deed.
 - (f) A storm drainage and a storm water management plan, including all lines, swales, drains, basins, and other facilities and easements granted to the appropriate municipality for installation, repair, and maintenance of all drainage facilities.
 - (g) A utility plan showing all water and sewer lines and easements to be granted to the appropriate municipality or public utility for installation, repair and maintenance of all utilities.
 - (h) A narrative describing the overall objectives of the proposed site condominium project.
 - (i) A narrative describing the proposed method of providing potable water supply, waste disposal facilities and public and private utilities.
 - (j) A street construction, paving and maintenance plan for all private streets within the proposed condominium project.

Section 16.05 Review of Preliminary Plans by the Planning Commission.

- (a) Site condominium project plan review shall be commenced by filing with the Township Clerk ten copies of a preliminary site condominium project plan which

complies with Section 16.04, together with an application fee in accordance with the fee schedule established by resolution of the Township Board.

- (b) The Township Clerk shall forward the copies of the preliminary plan to the Zoning Administrator who shall review the preliminary plan to determine its completeness and to provide any comments to the Planning Commission regarding the plan. If the plan is not complete, it shall be returned to the Applicant with a written explanation of any deficiencies. A corrected application may be submitted without payment of a new application fee within six months of the return of any plan to an applicant. If the plan is complete, the Zoning Administrator shall forward it to the Planning Commission on completion of review, together with any comments from the Zoning Administrator.
- (c) The Planning Commission shall review the preliminary site condominium project plan in accordance with the standards and requirements of this chapter.
- (d) After reviewing the preliminary site condominium project plan, the Planning Commission shall prepare a written statement of recommendations regarding the proposed site condominium project, including any suggested or required changes in the plan. The Planning Commission shall provide a copy of its written recommendations to the applicant and to the Township Board.

Section 16.06 Review and Approval of Final Plans by Township Board.

- (a) After receiving the Planning Commission's recommendations on the preliminary plan, the applicant shall submit to the Township Clerk a minimum of ten copies of a final site condominium development plan which complies with the requirements of this section and of Section 16.04. The Township Clerk shall forward the copies of the final plan to the Zoning Administrator who shall review the final plan to determine its completeness and to provide any comments to the Township Board regarding the plan. If the plan is not complete, it shall be returned to the applicant with a written explanation of any deficiencies. A corrected application may be submitted without payment of a new application fee within six months of the return of any plan to an applicant. If the plan is complete, the Zoning Administrator shall forward it to the Township Board on completion of review and comments by the Zoning Administrator.
- (b) The final site condominium project plan submitted by the applicant shall incorporate all of the recommendations, if any, made by the Planning Commission based on its prior review of the preliminary plan. If any of the Planning Commission's recommendations are not incorporated in the final plan, the applicant shall clearly specify in writing which recommendations have not been incorporated and the reasons why those recommendations have not been incorporated. Except for changes made to the plan as necessary to incorporate the recommendations of the Planning Commission, the final plan shall otherwise be identical to the preliminary plan which was reviewed by the Planning Commission. Changes made to the plan other than those necessary to incorporate

the recommendations of the Planning Commissions shall be reviewed by the Planning Commission as provided by this chapter, prior to approval of the plan by the Township Board.

- (c) After receiving the Planning Commission's recommendations on the preliminary plan and a final site condominium development plan from the applicant, the Township Board shall proceed to review and may approve, deny or approve with conditions, the plan in accordance with the standards provided by Section 16.07 and other applicable procedures, standards and requirements provided by this chapter.
- (d) As a condition of approval of a final site condominium project plan:
 - (1) The Township Board shall require that the plan be submitted to the County Health Department, County Road Commission, County Drain Commissioner, Michigan Department of Natural Resources, Michigan Department of Public Health, Michigan Department of Environmental Quality, and other appropriate state and county review and enforcement agencies ("the Agencies") having direct approval or permitting authority over any aspect of the proposed site condominium project. Unless a different time limit for completion of review by the agencies has been established by law or regulation, the review by the agencies must be completed within 90 days after submission of an administratively complete final site condominium project plan. If no response is received within the applicable time period for review, the approval of the agency or agencies shall be presumed.
 - (2) The Township may impose additional reasonable conditions of approval as provided by the site plan review chapter and any other provisions of this Ordinance, any other Township ordinance, state law or regulation, or any other applicable law or regulation.

Section 16.07 Standards for Approval. To receive approval, a site condominium project plan shall satisfy the following requirements:

- (a) The plan shall satisfy the standards and requirements for site plan approval in Chapter 17 of this Ordinance.
- (b) The proposed common elements and maintenance provisions, use and occupancy restrictions, utility systems and streets, project layouts and design, or other aspects of the proposed project, shall comply with all requirements of the Condominium Act or other applicable laws, ordinances or regulations. The Zoning Administrator, Township attorney, Township engineer, Township fire chief, or other appropriate persons shall be consulted as necessary to make this determination.

- (c) Each site condominium unit shall comply with all applicable provisions of this Ordinance, including minimum lot area, minimum lot width, required front, side and rear yards, and maximum building height.
- (d) If a site condominium project is proposed to have public streets, the streets shall be paved and developed to the minimum design, construction, inspection, approval, and maintenance requirements for platted public streets as required by the County Road Commission.
- (e) Private streets may be permitted to provide access to and throughout a site condominium:
 - (1) All private streets shall comply with Section 4.25 of this Ordinance.
 - (2) Provisions in the master deed and bylaws shall obligate the developer and/or owner's association to assure that all the private streets are regularly maintained, repaired and snowplowed so as to assure that they are safe for travel at all times. The master deed and/or bylaws shall also include a provision indemnifying and holding the Township harmless from any and all claims for personal injury and for property damage arising out of the failure to properly construct, maintain, repair and replace the private streets.
- (f) The site condominium project shall be connected to public water and sanitary sewer facilities, if available according to Township ordinance. If public water and sanitary sewer facilities are not available, the site condominium project shall either be served by a private central system (designed for connection to a public system when and if a public system is made available), or shall have a well, septic tank, and drain field located within the site condominium unit. Water and sanitary sewer facilities shall be approved by the County Department of Health and the Township in accordance with applicable standards.

Section 16.08 Construction in Compliance with Approved Plan. No buildings or structures shall be constructed nor shall any other site improvements or changes be made on the property in connection with a site condominium project except in compliance with a final site condominium project plan as approved by the Township Board, including any conditions of approval.

Section 16.09 Completion of Improvements. No building or occupancy permit for a site condominium unit in an approved site condominium shall be issued until construction of all required improvements has been completed and approved by the Township, or security for completion of such improvements has been provided.

Section 16.10 Expandable or Convertible Condominium Projects. Approval of a final site condominium project plan shall not constitute approval of expandable or convertible portions of a site condominium project unless the expandable or convertible areas were specifically

reviewed and approved by the Township Board in compliance with the procedures, standards and requirements of this chapter.

Section 16.11 Revisions of Approved Final Site Condominium Project Plan.

- (a) Changes to a development for which a site condominium plan has been approved are subject to this section.
- (b) Any change which constitutes an exempt change shall not be subject to review by the Township under this chapter, but a copy of the exempt changes shall be filed with the Township Clerk. “Exempt change” means:
 - (1) A change in the name of the development; in the name of a street within the development; or in the name of the developer.
 - (2) A change in the voting rights of co-owners or mortgagees.
 - (3) Any other change in the site condominium development which, as determined by the Zoning Administrator, does not constitute a major or minor change or will not otherwise change the site configuration, design, layout, topography or any other aspect of a development which is subject to regulation under the zoning ordinance.
- (c) Any change which constitutes a minor change shall be reviewed and approved by the Zoning Administrator, but in the discretion of the Administrator, any such minor change may be reviewed and approved by the Planning Commission. “Minor change” means a minor change in the site configuration, design, layout or topography of a site condominium development (or any portion thereof), including any change that will result in:
 - (1) A decrease in the number of site condominium units.
 - (2) A reduction in the area of the building envelope for any site condominium unit.
 - (3) A reduction of less than 10 percent in the total combined area of the general common elements of the site condominium.
 - (4) A reduction in the total combined area of all limited common elements of the site condominium.
 - (5) Any other minor variation in the site configuration, design, layout, topography or other aspect of the development which is subject to regulation under this zoning ordinance, and which, as determined by the Zoning Administrator, does not constitute a major change.
- (d) Any change which constitutes a major change shall be reviewed by the Planning Commission and shall also be reviewed and approved by the Township Board, as

provided in this chapter for the original review and approval of site condominium project plans. “Major change” means a major change in the site configuration, design, layout or topography of a site condominium development (or any portion thereof), including any change that could result in:

- (1) An increase in the number of site condominium units.
- (2) Any other change in the site configuration, design, layout, topography, or other aspect of the project which is subject to regulation under this zoning ordinance, including, without limitation, a change in the location of streets and utilities, or in the size, location, area, horizontal boundaries or vertical boundaries of a site condominium unit, and which is determined by the Zoning Administrator to constitute a major change to the site condominium project.

Section 16.12 Incorporation of Approved Provisions in Master Deed. All provisions of an approved site condominium development plan shall be incorporated by reference in the master deed for the site condominium project. The Township shall require review and approval by the Township attorney prior to recording. A copy of the master deed as recorded with the County Register of Deeds shall be provided to the Township within ten days after recording.

Section 16.13 Approval Effective for One Year. Approval of a final site condominium project plan by the Township Board shall be effective for a period of one year. This one-year period may be extended by the Board in its discretion for additional periods of time as determined appropriate by the Board if the extension is applied for by the applicant within the effective period of the approval.

CHAPTER 17

SITE PLAN REVIEW

Section 17.01 Review Required. Site plan review shall be required:

- (a) Prior to the creation of any new land use or erection of any new building, except single family and two family dwellings.
- (b) Prior to any change in an existing land use or structure, except single family and two family dwellings, but only (1) if such change is from a residential to nonresidential use; or (2) is accompanied by an increase in the exterior dimensions of a building; or (3) if the use is changed to one in which the minimum parking spaces required for the use increase by more than 10 percent.

Section 17.02 Informal Pre-Application Review.

- (a) If desired by the applicant, prior to submitting a site plan meeting the requirements set forth herein, an informal review of a proposed application may be submitted to the Planning Commission.
- (b) Applications for an informal pre-application review shall be made in accordance with the application procedures of this section, except that no application fee shall be charged.
- (c) A proposed application submitted for pre-application review does not need to meet the requirements for site plans set forth herein, but shall contain sufficient information to inform the Planning Commission of the nature and scope of the proposed project.
- (d) The Planning Commission shall review the proposed application solely for the purpose of providing comments and making recommendations to assist the applicant in preparing a site plan which will conform to the standards of this Ordinance. No vote shall be taken on any proposed application.

Section 17.03 Contents of Site Plan. A site plan shall include all of the following information, unless waived by the Zoning Administrator.

- (a) A site plan based on an accurate certified land survey showing:
 - (1) The date, North arrow, and scale. The scale shall be not less than 1"=100' for those sites three acres or more.
 - (2) The name and firm address of the professional individual responsible for the preparation of the site plan.
 - (3) The name and address of the property owner or petitioner.

- (4) A locational sketch.
- (5) Legal description of the subject property.
- (6) The size (in acres) of the subject property.
- (7) Property lines and required setbacks.
- (8) Refuse and service areas.
- (9) Loading and unloading facilities.
- (10) Exterior lighting and signs.
- (11) The location of all existing structures, driveways, and parking areas on the subject property within 300 feet of the subject property's boundaries.
- (12) The location and dimensions of all existing and proposed structures on the subject property.
- (13) The location of all existing and proposed drives, acceleration/deceleration lanes, sidewalks and existing and proposed parking areas.
- (14) The location and right-of-way width of all abutting roads, streets, alleys or easements.
- (15) The current uses of all properties abutting the subject property.
- (16) The location and a general description of all existing vegetation, and the location, type, and size of all proposed landscaping, and the location, height and type of existing and proposed fences and walls.
- (17) Location and nature of existing and proposed water supply and sewage disposal facilities, including any proposed connections to public sewer or water supply systems.
- (18) The location and size of all existing and proposed surface water drainage facilities.
- (19) Existing and proposed topographic contours.
- (20) Recreation areas, common use areas, and areas to be conveyed for public use.
- (21) Existing and proposed lakes, streams and other bodies of water.
- (22) Flood plain areas and basement and floor elevations of all buildings.
- (23) Any deed restrictions or covenants.

- (24) Typical elevation views of the front and side of each building.
- (25) A brief narrative description of the project.
- (b) Preliminary architectural sketches and/or a general statement as to the type of construction and materials to be used in the proposed buildings or structures. Height and area of buildings and structures shall be described.
- (c) The period of time within which the project will be completed.
- (d) Proposed staging of the project, if any.
- (e) Gross areas of buildings and parking.
- (f) Delineation of the 100-year floodplain and any proposed uses therein.
- (g) Additional information which the Township may request and which is reasonably necessary to evaluate the site plan.

The application for site plan approval shall be accompanied by a fee, as established by Township Board resolution from time to time. The Planning Commission may waive any of the required contents of the site plan, if such items are deemed not necessary to a decision concerning the site plan.

Section 17.04 Standards of Review. The Planning Commission shall approve a site plan if it determines that the plan complies with the requirements of this Ordinance; is consistent with the intent and purposes of the Ordinance; will be compatible with adjacent land uses, and the natural environment and capacities of public services and facilities; and will be consistent with the public health, safety and welfare. In addition, the site plan shall comply with the following standards:

- (a) **Building Permit.** Where a site plan has been approved for any use, any building permit issued shall provide that the development be completed in accordance with the approved site plan. A failure to conform with the site plan shall be a violation of this Ordinance, and if necessary the Township may issue a stop work order.
- (b) **Traffic Circulation.** The number, location, and size of access and entry points, and internal traffic and pedestrian circulation routes shall be designed to promote safe and efficient access to and from the site, and circulation within the site. In reviewing traffic circulation features, the Planning Commission shall consider spacing and alignment with existing and probable future access points on nearby properties, and may require that provision be made for shared access with adjacent properties.
- (c) **Storm Water.** Storm water detention and drainage systems shall be designed so that the removal of surface waters will not adversely affect neighboring properties or public storm water drainage systems.

- (d) **Landscaping.** The landscape shall be preserved in its natural state, insofar as practicable, by minimizing unnecessary tree and soil removal, and any grade changes shall be in keeping with the general appearance of neighboring developed areas. The Planning Commission may require that landscaping, buffers, or greenbelts be preserved or provided, to ensure the proposed uses will be adequately buffered from one another and from surrounding property.
- (e) **Screening.** Where commercial uses abut residential uses, appropriate screening consisting of attractively designed, fencing or screening, or equivalent landscaping, shall be provided so as to shield residential properties from noise, headlights, and glare, and from the view of trash receptacles, dumpsters and similar outdoor, utilitarian uses, common to commercial activities.
- (f) **Lighting.** Outdoor lighting shall be designed so as to minimize glare on adjacent properties and public streets.
- (g) **Exterior Uses.** Exposed storage areas, machinery, heating and cooling units, service areas, loading areas, utility buildings and structures, and similar accessory areas shall be located so as to have only a minimum negative effect on adjacent properties, and shall be screened if reasonably required to ensure compatibility with surrounding properties.
- (h) **Utilities.** Water supply and sewage disposal facilities shall comply with all Township and county requirements.
- (i) **Signs.** Signs shall comply with the sign provisions of this Ordinance.
- (j) **Parking and Loading.** Off-street parking and loading facilities shall comply with Chapter 19.

Section 17.05 Conditions. The Planning Commission may impose reasonable conditions on the approval of a site plan. Such conditions may include but need not be limited to conditions necessary to insure compatibility with adjacent land uses, to promote the use of land in a socially and economically desirable manner, to protect the natural environment and conserve natural resources and to insure that public services and facilities affected by a proposed land use or activity will be capable of handling increased service and facility demands caused by the land use or activity.

Section 17.06 Improvements, Financial Guarantees. To insure compliance with the zoning ordinance and any conditions imposed thereunder, the Planning Commission may require that a cash deposit, certified check, irrevocable bank letter of credit, or surety bond acceptable to the Township covering the estimated cost of the improvements proposed in the site plan, be deposited with the Township Clerk to insure timely and faithful completion of the improvements.

Section 17.07 Procedures.

- (a) Ten copies of a site plan and a completed application form, and the application fee shall be submitted to the Zoning Administrator. After the Zoning

Administrator determines that a proposed land use complies with the zoning ordinance, the building code and other ordinances of the Township, the site plan shall be placed on the agenda of a Planning Commission meeting.

- (b) The Planning Commission may approve the site plan, disapprove it, or approve it with conditions.
- (c) Any conditions or modifications approved or required by the Planning Commission shall be recorded in the minutes of the Planning Commission meeting.
- (d) Decisions on a site plan shall be made by a majority vote of those present.
- (e) Upon approval of a site plan, the site plan as approved shall become part of the record of approval of the land use. All subsequent actions relating to the land use shall be consistent with the approved site plan, unless changes therein are approved by the Planning Commission. Failure to conform to an approved site plan shall be a violation of this Ordinance.
- (f) In the event of construction work or other activity that does not comply with an approved site plan, the Township may issue a stop work order, whereupon all work in violation of or inconsistent with the approved site plan shall cease, until the stop work order is withdrawn by the Township.
- (g) Upon approval of a site plan, the plan shall be signed by the chairperson of the Planning Commission; with one copy to the Zoning Administrator, one copy to the Township Clerk, one copy shall be submitted to the Building Inspector and one copy shall be returned to the applicant.

Section 17.08 Changes in Approved Site Plans.

- (a) The holder of an approved site plan shall notify the Zoning Administrator of any proposed change in the approved site plan.
- (b) Minor changes in an approved site plan may be approved by the Zoning Administrator, upon a determination that the proposed change will not alter the basic design of the development or any specific conditions imposed as a part of the original approval. Minor changes shall include the following:
 - (1) Change in building size, up to 5 percent in total floor area.
 - (2) Change in location of buildings or other structures by no more than ten feet.
 - (3) Replacement of plant material specified in the landscape plan, with comparable material.
 - (4) Changes in building materials to a comparable or higher quality.

- (5) Changes in floor plans which do not alter the character of the use.
 - (6) Internal rearrangement of a parking lot which does not affect the number of parking spaces or alter access locations or design.
 - (7) Changes required or requested by the Township for safety reasons.
 - (8) Changes which will preserve the natural features of the site without changing the basic site layout.
 - (9) Other similar changes of a minor nature which are deemed by the Zoning Administrator to be not material or significant in relation to the entire site, and which the Administrator determines would not have a significant adverse effect upon adjacent or nearby lands or the public interest.
- (c) The Zoning Administrator may refer any decision regarding any proposed site plan change to the Planning Commission for review and approval (regardless of whether the change may or may not qualify as a minor change).
 - (d) Should the Zoning Administrator determine that the requested change to the approved site plan is not a minor change, then the site plan shall be resubmitted to the Planning Commission, for consideration of an amendment in the site plan, under the same procedures as are required for original approval of a site plan.

Section 17.09 Appeal.

- (a) A person aggrieved by the action of the Planning Commission with regard to a site plan may appeal in writing to the Township Board within seven days after the date of the Planning Commission's action. The Township Board shall determine a date, time and place when it will consider such appeal and shall notify the applicant thereof.
- (b) All interested parties may be heard at the meeting at which the Township Board considers the appeal. After hearing the matter, the Township Board shall affirm, modify or reverse, in whole or in part, the action of the Planning Commission with regard to the site plan. Such action by the Township Board shall be based upon the standards set forth in Section 17.04.

CHAPTER 18

SIGNS AND BILLBOARDS

Section 18.01 Intent of Regulation. These sign regulations are intended to protect the health, safety and welfare of the general public, promoting and balancing public and private interests. Signs inform, direct, advertise and communicate information, but must do so in a manner that does not unduly detract from the community or the safety of the traveling public. The sign regulations are intended to further the following objectives:

- (a) **Aesthetics.** Protect and further the public health, safety and welfare; maintain and approve the Township's appearance and preserve community character.
- (b) **Traffic safety.** Minimize traffic hazards and distractions; provide safer conditions, including information and direction for the traveling public and for pedestrians.
- (c) **Promote businesses.** Promote economic development and commercial activity.
- (d) **Foster free speech.** Preserve and respect the right of free speech.
- (e) **Business identification.** Allow for adequate and effective signage for business identification and other commercial speech, non-commercial speech and distribution of public information.

Section 18.02 Definitions.

- (a) **Abandoned Sign.** A sign which no longer identifies or advertises a bona fide business, owner, landlord, person, service, product or activity, or for which no legal owner can be found. A sign shall be considered an abandoned sign if the owner has failed to secure a permit as required by this Ordinance, or where the owner has failed to respond to notices issued under this Ordinance.
- (b) **Address Sign.** A sign which identifies the street address of a property with numbers or letters no greater than six (6) inches in height for residences and no greater than eighteen (18) inches in height for all other uses.
- (c) **Alteration.** As used in this chapter, the term "alteration" (or "alter," "altered" etc.) means any change in a sign, including, without limitation, any change in a sign's dimensions, shape, area, height, number or orientation of sign faces, structural support, location on the property, materials or lighting; provided, however, a change solely in the wording of the copy of a sign shall not constitute an "alteration" for purposes of this chapter, unless the result of the change would cause the sign to be reclassified to a type of sign that is subject to different or more restrictive regulation.

- (d) **Awning or Canopy.** A retractable or fixed shelter on a supporting framework, constructed of fabric, plastic or other non-rigid materials, projecting from and supported by the exterior wall of a building.
- (e) **Balloon Sign.** A sign composed of a non-porous structure filled with gas or supported by air.
- (f) **Billboard or Off-Premises Sign.** Any structure, including the wall of any building, on which lettered, figured or pictorial matter is displayed for advertising a business, service, or entertainment which is not conducted on the land upon which the structure is located or products not primarily sold, manufactured, processed, or fabricated on such land. This definition does not include a Portable Sign, or a Garage or Estate Sale Sign, as defined in this Section.
- (g) **Business Sign.** Any sign structure, including the wall of any building, on which lettered, figured, or pictorial matter is displayed for advertising a business, service, or entertainment conducted on the same land where the sign structure is located, or advertising products sold, manufactured, processed, or fabricated on the same land where the sign structure is located.
- (h) **Community Special Event Sign.** A portable sign not exceeding four (4) square feet in area, erected for the purpose of calling attention to non-commercial, special events of interest to the general public which are sponsored by governmental agencies, schools or other non-profit groups whose purpose is of a public, charitable, philanthropic, religious or benevolent nature.
- (i) **Construction Sign.** A sign less than twelve (12) square feet in area which identifies the owners, lenders, contractors, architects, and engineers of a project under construction, as well as the project itself.
- (j) **Copy.** The wording, numbering or lettering on a sign surface in either permanent or removable letter or number form.
- (k) **Device Sign.** A permanent sign on vending machines, gas pumps, ice containers and similar equipment or fixtures indicating only the contents of such device, provided that the sign area of each sign shall not exceed three (3) square feet in area, and shall be limited to one (1) sign per vending machine, gas pump, ice container or other similar equipment.
- (l) **Digital Billboard.** A billboard consisting of, or incorporating, a digital sign as defined herein.
- (m) **Digital Sign.** A sign that consists of, or incorporates an image, display or sign face that is projected or otherwise produced, in whole or in part, by the use of specialized light-emitting technologies, such as, but not limited to, light-emitting diodes (LEDs), liquid crystal display (LCD) or plasma display panels, computer-generated imaging or similar means.

- (n) **Directional Sign.** A sign which gives directions, instructions, or facility information for the movement of vehicles or pedestrians on the same lot on which the sign is located, such as parking or exit and entrance signs. A directional sign shall not exceed four (4) square feet in area and shall be set back at least five (5) feet from the street right-of-way line and the edge of all driveways. It shall bear no advertising matter other than a logo, trademark or identifying name of the business or entity subject to such directional sign.
- (o) **Electronic Message Board.** A sign that uses lights to display messages, such as, but not limited to, the current time, temperature, date of the immediate environment and limited advertisement, commercial or informational message or image.
- (p) **Flags.** Flags or insignia of any governmental or non-profit organization when not displayed in connection with a commercial promotion or as an advertising device.
- (q) **Garage or Estate Sale Sign.** A non-permanent sign not exceeding four (4) square feet in area, erected to advertise the resale of personal property belonging to the resident. This definition includes signs for garage sales, estate sales, rummage sales, yard sales or other similar casual sale of property. Not more than four (4) such signs may be installed and used for a single event, at any given time, and such signs shall be displayed for not more than 14 days in any calendar year.
- (r) **Gateway Sign.** A freestanding sign identifying, in the case of a residential district, a residential development or development of multiple dwelling buildings, and in the case of a commercial development or an industrial park, the name of the business center or industrial park. In the case of an industrial or commercial center, the gateway sign may include the names of the individual businesses or land uses within the development or park, subject to the regulations contained in this Ordinance. In the case of a planned unit development, a gateway sign shall comply with the requirements for a residential development, or for the requirements of a commercial or industrial development, as applicable. If the PUD is a mixed use development, the names of the individual businesses or land uses within the development or park may be listed on the gateway sign.
- (s) **Ground Sign (a/k/a Monument Sign).** A freestanding sign not attached to a building or wall which is supported by one (1) or more poles or braces or which rests on the ground or on a foundation resting on the ground, the bottom of which is no more than 24 inches above the finished grade.
- (t) **Governmental and Essential Service Sign.** A sign erected or required to be erected by the Township, Kent County, or the state or federal government, traffic and highway signs, and signs denoting utility lines, airports or railroads.
- (u) **Historic markers.** A plaque, marker or sign made of cast iron or similar durable material commemorating a historic person or event or identifying a historic place,

structure or object, including a centennial farm. A sign of this type shall not exceed four (4) square feet in area.

- (v) **Human or Animal Signs.** A sign for commercial purposes that is held, supported, carried or worn by a person or animal, including the wearing of a sandwich board or other message.
- (w) **Identification Sign.** A sign located on the same premises it pertains to, which serves only to identify only the name of the occupants, the name of the premises, and/or the address of the premises, and which in the case of a commercial farm operation, may also include the name of the farm operation or principal farm product produced on the same premises.
- (x) **Illuminated Sign.** A sign that provides artificial light directly (or through any transparent or translucent material) from a source of light within such sign, or a sign illuminated by a light so shielded that no direct rays from it are visible from any public right-of-way or from the abutting property.
- (y) **Name Plate Sign.** A non-electric on premise sign not exceeding four (4) square feet in area, giving only the name, address, and/or occupation of a tenant, occupant or group of occupants.
- (z) **Non-conforming Sign.** A sign which was legally erected prior to the effective date of this Section, but which does not conform to this Section.
- (aa) **Placard.** A sign not exceeding two (2) square feet which provides notices of a public nature, including warnings and safety messages, such as “no trespassing” or “no hunting.”
- (bb) **Pole or Pylon Sign.** A freestanding sign, the bottom of which is more than 24 inches above the finished grade, and which is supported by a structure, poles, or braces which are less than 50 percent of the width of the sign.
- (cc) **Political Sign.** A non-commercial, portable sign displayed in connection with a governmental election or referendum. This definition also includes portable signs that communicate ideological messages or ideas that are not commercial in nature, and which, by their nature, are afforded the highest level of constitutional protection under the First Amendment.
- (dd) **Portable Sign.** A sign that is not permanent or affixed to a building or structure or, which by its nature, may be or is intended to be moved from one location or another, whether rented or owned, such as “A” frame signs. A portable sign may contain directional information about the location of a business or activity (e.g., “1/4 mile to U-Pick Orchard”).
- (ee) **Projecting Sign.** A double-faced sign attached to a building or wall that extends in a perpendicular manner more than 12 inches, but not more than 36 inches, from the exterior face of the building or wall to which it is attached.

- (ff) **Public Utility Signs.** Signs of a non-commercial nature erected by public utilities with respect to services, products, warnings or other information regarding the utility.
- (gg) **Real Estate Sign.** A non-illuminated, portable sign that advertises the real estate upon which the sign is located as being for sale, rent or lease, provided the real estate sign does not exceed four (4) square feet in area for single or two-family residences or eight (8) square feet for commercial, industrial and other residential properties (including undeveloped land). A real estate sign shall not have a height greater than six (6) feet, and not more than one (1) such sign shall be located on a single lot or parcel at any given time.
- (hh) **Sign.** A device, fixture, placard, or structure that uses any color, form, graphic, illumination, symbol, or writing to advertise, announce the purpose of, or identify the purpose of any business, establishment, person, entity, product, service or activity, or to communicate information of any kind to the public.
- (ii) **Temporary Sign.** A sign, flag, banner, feather sign, flutter sign, inflatables, figure, pennant or valance, usually constructed of cloth, canvas, light fabric, plastic, mylar, cardboard, wallboard or other light materials, with or without frames, or any other sign, other than a portable sign, that is not permanently secured and is not intended or designed for permanent use.
- (jj) **Temporary Window Sign.** A window sign that is used only temporarily and is not permanently mounted. A sign which is intended to be or is in place for more than one (1) year is not a temporary sign.
- (kk) **Vehicle Sign.** A sign affixed, painted or drawn on a vehicle or trailer, the primary purpose of which is to advertise or identify an establishment, product, service or activity, rather than merely to identify the vehicle or trailer while it is being used for transport, delivery or similar purpose, but excluding a sign on a licensed vehicle or trailer being parked overnight or otherwise being parked for a time of short duration and associated with the use of the vehicle or trailer for travel, transport, delivery or the like.
- (ll) **Wall Sign.** A sign painted or attached directly to and parallel to the exterior wall of a building, which does not extend more than 12 inches from the exterior face of the wall to which it is attached.
- (mm) **Window Sign.** A sign installed inside a window intended to be viewed from the outside, which complies with the following requirements:
 - (1) Temporary window signs or displays are permitted provided that the signs or displays shall not cover more than thirty percent (30%) of the total window or door surface.
 - (2) Permanent window signs or displays shall be limited to fifteen (15%) percent of the total window surface.

- (3) One address sign, containing only the street address, is permitted in the window of each tenant in a building that has more than one tenant. The address sign shall not exceed one (1) square foot in area. The address sign shall not be included in the calculation of permitted area for window signs.

Section 18.03 Permit Required; Exemptions. A sign shall not be erected, altered, placed or permitted to be placed or replaced within the Township without first obtaining a sign permit, except that if the following signs comply with applicable definitions and restrictions contained in this chapter, such signs shall be exempt from the requirement to obtain a sign permit. All signs, including the following exempt signs, shall comply with the general sign provisions of Section 18.4:

- (a) Address signs.
- (b) Community special event signs.
- (c) Construction signs
- (d) Device Signs.
- (e) Directional signs.
- (f) Public utility signs.
- (g) Flags.
- (h) Garage sale and estate sale signs.
- (i) Historic markers.
- (j) Name plate signs.
- (k) Placard signs.
- (l) Political signs.
- (m) Real estate signs.
- (n) Governmental and traffic control signs.
- (o) Window signs.

Section 18.04 General Sign Provisions. The following regulations are applicable to all signs in all zoning districts, including exempt signs:

(a) **Sign Structure and Placement.**

- (1) **Wind and weather resistant.** Signs shall be constructed to withstand all wind and vibration forces which can normally be expected to occur.
- (2) **Not in Public Right-of-Way.** Signs shall not be placed in, upon or over any public right-of-way, alley, or other place, except as may be otherwise permitted by the Kent County Road Commission or Michigan Department of Transportation. Signs placed in the right-of-way in violation of this ordinance shall be deemed to be an abandoned sign and a safety hazard, subject to immediate removal and disposal by the Township.
- (3) **Not on utility pole.** A light pole, utility pole or other supporting member shall not be used for the placement of any sign, except as may be specifically permitted by this chapter.
- (4) **Not a traffic distraction.** A sign shall not be erected in any place where it may, by reason of its position, shape, color, or other characteristics, interfere with, obstruct the view of, or be confused with any authorized traffic sign, signal, or device, or constitute a nuisance per se.
- (5) **Not above roofline.** A wall sign, including signs erected on a mansard roof, shall not extend past the edge of the wall to which it is affixed nor shall any such sign extend above the roof line of a building.
- (6) **Within lot lines.** A sign and its supporting mechanism shall not extend beyond or above any lot lines of the property on which it is located.
- (7) **Off-Premises and Portable Signs.** All signs shall be stationary, anchored and shall pertain only to the business or activity conducted on the premises, except for directional signs, community special event signs and billboards. No directional sign, community special event sign or billboard shall be placed on an off-premises property without the written consent of the property owner.
- (8) **Changeable Copy Signs.** Wall and freestanding signs may include changeable message displays within the maximum size limits permitted for the sign; provided the message is static and is not changed more frequently than permitted by this section and by the applicable district sign regulations.
- (9) **Maintenance.** Signs and their supporting foundations shall be cleaned and maintained in good repair, and shall be clearly legible, not faded.

(b) **Measurement of Sign Area.** No sign shall exceed the maximum sign area allowed for the district in which it is located. The sign area is to be expressed in square feet, computed to the nearest tenth of a square foot, and shall be calculated as follows:

- (1) **Area.** The area of a sign shall be measured as the area within a single, continuous perimeter composed of any straight line geometric figure which encloses the extreme limits of writing, representation, emblem, logo or any other figure of similar character, together with any frame or other material or color forming an integral part of the display or used to differentiate the sign from the background against which it is placed, excluding only the structure necessary to support the sign.
- (2) **Double-faced sign.** The area of a freestanding, ground or projecting sign that has two or more faces shall be measured by including the area of all sign faces, except if two faces are placed back-to-back and are no more than two feet apart at any point, the area of one face shall be counted toward the maximum size requirement. If the two back-to-back faces are of unequal size, the larger of the two sign faces shall be counted as the one face.
- (3) **Wall sign.** For a sign consisting of individual letters and/or a logo affixed directly onto a building, the area of the sign shall be computed by measuring the area of the envelope required to enclose the lettering and logo.
- (4) **Height.** The height of a sign shall be measured as the vertical distance from the highest point of the sign to the finished grade of the ground immediately beneath the sign, excluding any artificially constructed earthen berms.
- (5) **Multiple tenant buildings.** For buildings with multiple tenants, the sign area for wall, projecting, canopy or awning signs shall be determined by taking that portion of the front wall of the building applicable to each tenant and computing the sign requirements for that portion of the total wall.

(c) **Illumination and Movement.**

- (1) Unless otherwise provided, Illuminated Signs are permitted. If externally illuminated, the source of the light shall be enclosed and directed to prevent light from shining directly onto traffic or neighboring property. No sign shall be illuminated in such a way or to such degree that it shines directly onto or adversely impacts persons on adjacent streets or properties.

- (2) Low pressure sodium lighting is the preferred light source to minimize light emission. No sign regulated by this Ordinance may utilize:
 - a. An exposed incandescent lamp with an external reflector and without a sunscreen 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 at angles above the sign's highest horizontal plane;
 - c. Flashing, moving, oscillating, revolving blinking, or variable intensity lights;
 - d. Beacon lights or search lights.
- (3) Electronic message boards or changeable copy signs in which the copy consists of an array of light are permitted provided the frequency of message change is not less than five (5) seconds. All lights in a display shall activate simultaneously, remain activated for not less than five (5) seconds, and deactivate simultaneously; provided, however, sign copy may be refreshed by text that appears or disappears through travel, scroll, fade or dissolved transitions if the visual impact is not to give the appearance of flashing, animation or other sudden movement likely to be unduly distracting to traveling motorists, and provided that each message on the sign, including the copy, must be displayed for a minimum of five (5) seconds. No sign shall have blinking, flashing or fluttering lights or other illuminated devices, such as changing light intensity, brightness or color.
- (4) No Sign within one hundred fifty (150) feet of a residential zone may be illuminated between the hours of 12:00 midnight and 6:00 a.m.
- (5) A sign shall not contain any moving or animated parts, nor have the appearance of having moving or animated parts, except for time and temperature signs and barber pole signs.

Section 18.05 Prohibited Signs. The following signs are prohibited within the Township:

- (a) Any sign not specifically permitted by this Ordinance.
- (b) Roof signs.
- (c) Digital signs, Digital billboards and Tri-vision billboards.
- (d) Billboards and off-premises signs, except as expressly allowed by this Ordinance.
- (e) Vehicle signs.

- (f) Human or Animal signs.
- (g) A sign erected on the roof of a building.
- (h) Banners, pendants and balloon signs, and other devices used to attract the attention of the public, except as otherwise allowed by this Ordinance as a temporary sign.
- (i) Light strings, and flashing, moving, oscillating, blinking, or variable intensity light.
- (j) Signs which depict vulgarity or pornography.

Section 18.06 Regulations for Portable and Temporary Signs.

- (a) Portable signs are permitted only as follows:
 - (1) Portable political signs are permitted in all districts. Other types of portable signs may be permitted only in the AG, RR, R-1, LR, R-2 and R-3 Districts, provided that they shall not be erected unless a permit therefore has been issued by the Zoning Administrator. Portable signs are prohibited in the C-1, C-2, I and any other non-residential districts unless specifically allowed by this Chapter.
 - (2) Where permitted, portable signs shall comply with each of the following requirements:
 - a. A portable sign may be used and displayed for a duration not to exceed 30 days in any calendar year.
 - b. A portable sign shall not be installed within a public road right-of-way.
 - c. A person shall not affix a portable sign to a property unless that person is (i) an owner of the property of which the sign is affixed, or (ii) has the express written permission of the owner of the property on which the sign is affixed.
 - d. Not more than four (4) portable signs may be installed and used by any one person or business, at any given time.
 - e. A portable sign shall not have an area of more than eight (8) square feet and shall not have a height of more than six (6) feet.
- (b) Temporary signs are permitted only as follows:
 - (1) Temporary political signs are permitted in all districts. Other non-exempt temporary signs are permitted provided that they shall comply with the

applicable definitions and restrictions contained in this Ordinance, and provided that they shall not be erected unless a permit therefore has been issued by the Zoning Administrator.

- (2) Where permitted, temporary signs shall comply with each of the following requirements:
 - a. A temporary sign may be used and displayed for a duration not to exceed fourteen (14) days in any calendar year, and only for the purpose of advertising a special or one-time commercial sales event or commercial celebration event.
 - b. A temporary sign shall not be installed within a public road right-of-way.
 - c. A person shall not affix a temporary sign to a property unless that person is an owner of the property of which the sign is affixed.

Section 18.07 District Regulations. Signs are permitted within the various zoning districts according to the following terms:

- (a) **Residential Districts.** Signs in the AG, RR, R-1, LR, R-2 and R-3 Districts shall be permitted only in accordance with the following provisions and other applicable provisions of this Ordinance:
 - (1) There may be one (1) ground sign or wall sign for a non-residential use, including but not limited to a permitted institutional use, such as a church, school, community center, library, museum, art gallery, park, playground, or governmental administrative or service building, not exceeding thirty-two (32) square feet in area on each lot or parcel of land or exceeding six (6) feet in height above the grade.
 - (2) A residential development, a residential site condominium development, apartment complex, PUD or other unified multiple dwelling residential project may have a gateway sign on each street frontage, not exceeding two signs for each development. The gateway sign shall not exceed thirty-two (32) square feet in area or six (6) feet in height and shall be set back a minimum of fifteen (15) feet from the right-of-way line and from all lot lines.
 - (3) One home based business sign per business is permitted on the same lot or parcel that is lawfully engaged in a permitted home based business. It shall be non-illuminated, shall not exceed four (4) square feet in area, and shall not exceed a height of six (6) feet.

- (4) Exempt signs are permitted, provided that they comply with the applicable terms and definitions of this Ordinance, and provided that such signs are not used for a commercial purpose that is not permitted in the district by this Ordinance.
- (b) **Commercial and Industrial Districts.** Signs in the C-1, C-2 and I Districts shall be permitted only in accordance with this section and other applicable provisions of this Ordinance:
- (1) One freestanding sign for each non-residential use, not to exceed forty-eight (48) square feet in its surface area and sixteen (16) feet in height.
 - (2) If a business sign is a freestanding sign, no part of the sign shall be closer than five (5) feet from the street right-of-way, and shall not otherwise obstruct visibility at street intersections.
 - (3) One wall sign, but its surface area shall be not more than (a) thirty-two (32) square feet, or (b) 15% of the surface area of the face of the building wall to which it is attached (whichever is greater), taking into account the first floor wall area only. Notwithstanding the preceding size limitations, a wall sign may be mounted above the first floor of a building, but not on the roof.
 - (4) If a business sign is a wall sign, no part of the sign shall extend farther than 18 inches from the exterior face of the wall to which it is attached. If it is a projecting sign, no part of the sign shall extend farther than 36 inches from the exterior face of the building or wall to which it is attached.
 - (5) A unified commercial or industrial development may have a single gateway sign on the street frontage of its primary entrance. The gateway sign shall not exceed thirty-two (32) square feet in area or six (6) feet in height and shall be set back a minimum of fifteen (15) feet from the right-of-way line and from all lot lines.
 - (6) Exempt signs are permitted, provided that they comply with the applicable terms and definitions of this Section.

Section 18.08 Signs for Special Land Uses and Planned Unit Development District Uses and Other Modifications.

- (c) Signs in and for special land uses shall be permitted only in accordance with the district regulations for the applicable special land use, unless the Planning Commission and/or the Township Board specifically approves, as part of the special land use procedures under Chapter 15 additional or different signage provisions.

- (d) Signs in and for the PUD District shall be permitted only in accordance with the district regulations for the PUD District, unless otherwise approved by the Planning Commission and the Township Board as part of the PUD District approving ordinance.
- (e) The Planning Commission may modify the sign regulations contained in this Chapter, with respect to an increase in the height, number or area of signs, or other modification of the requirements contained in this Chapter, where the purposes of this Chapter will nevertheless be achieved by the modified provisions. In approving such modifications, the Planning Commission shall consider the following criteria:
 - (1) Standards for Modification.
 - a. The modification shall be compatible with adjacent existing and future land uses and shall not be injurious to the use and enjoyment of nearby property.
 - b. The modification shall improve and not impede emergency vehicle or personnel access, traffic or pedestrian circulation.
 - c. The modification shall be necessary because of topography, natural features, visual obstructions or other unusual aspects of the site.
 - d. The modification shall not result in traffic or safety hazards, shall not result in visual clutter or distraction, and shall not otherwise result in a detriment to the public health, safety and welfare.
 - (2) Requests for Modification. When requesting modifications from the provisions of this Chapter, the applicant shall provide the Planning Commission with a written statement of justification, indicating the site conditions that warrant the requested modifications and specifying how the modifications would nevertheless carry out the basic intent and purposes of this Chapter.

Section 18.09 Billboards.

- (f) The construction, installation and use of billboards is prohibited.
- (a) A lawful non-conforming billboard may be permitted to remain if the billboard is properly maintained as provided in Section 18.10, except that in no circumstance shall a billboard be converted to a digital billboard.

Section 18.10 Non-conforming Signs and Signs Accessory to Non-conforming Uses.

- (g) **Continuance.** Notwithstanding any other provision of this chapter to the contrary, a permanent sign which was erected legally and which lawfully exists at the time of the enactment of this Amendment, but which does not conform to the height, size, area, location or other requirements of this chapter, is deemed to be non-conforming and may continue to be used subsequent to that time, as provided by this section.
- (h) **Alteration/Repair.** Non-conforming signs shall not be altered, expanded, enlarged, extended, or repaired, without being brought into full compliance with all applicable regulations under this chapter, except as expressly provided by this subsection.
 - (1) A non-conforming sign may be diminished in size or dimension without jeopardizing the privilege of non-conforming use. As with conforming signs, a change solely in the wording of the copy of a non-conforming sign shall not constitute an alteration for purposes of this chapter, unless the result of the change would cause the sign to be reclassified to a type of sign subject to different or more restrictive regulation.
 - (2) Routine repair to maintain a non-conforming sign in a safe and aesthetic condition exactly as it existed at the time of the enactment of this chapter and so as to continue the useful life of the sign shall not constitute an alteration for purposes of this chapter, unless the estimated cost of repair exceeds fifty (50%) percent of the appraised replacement cost of the entire sign prior to the repair, as determined by the Township. If the estimated cost of repair exceeds fifty (50%) percent of that appraised replacement cost, the right to continue using the non-conforming sign shall thereupon terminate and the sign must be brought into full compliance with all applicable provisions and requirements of this chapter prior to further use.
 - (3) In no event shall the alteration of a non-conforming sign result in an increase in the nature or degree of any aspect of the sign's non-conformity.
- (i) **Signs Accessory to Non-conforming Uses.** A sign related to a non-conforming use may be erected in the Township in accordance with the sign regulations for the zoning district in which the property is located.
- (j) **Damage or Destruction.** If a non-conforming sign is damaged or destroyed by fire, explosion, flood, wind or other calamity, the sign may be restored to the condition exactly as it existed immediately prior to the damage or destruction, unless the estimated cost of restoration or replacement exceeds 50% of the appraised replacement cost of the entire sign prior to the loss, as determined by the Township. If the estimated cost of restoration or replacement exceeds 50% of that appraised replacement cost, the right to continue using the non-conforming

sign shall thereupon terminate and the sign shall be brought into full compliance with all applicable provisions and requirements of this chapter prior to further use.

- (k) **Abandoned Signs.** Any sign which the Township determines to be abandoned shall be removed by the owner. If the owner does not remove the sign, or if no owner can be found, the Township may remove and dispose of the sign. If the sign is removed by the Township and the owner is known, the Township shall have the right to recover from the owner of the sign the full costs of removing and disposing of the sign. Signs in the public right-of-way shall be subject to immediate removal by the Township.

- (l) **Portable and Temporary Signs.** Portable and temporary signs that are non-conforming shall be altered to comply with the provisions of this chapter or they shall be removed within ninety (90) days after the effective date of this section.

CHAPTER 19
OFF-STREET PARKING AND LOADING

Section 19.01 Purpose. The purpose of this chapter is to prescribe regulations for off-street parking of motor vehicles in residential and non-residential zoning districts, to ensure by the provision of these regulations that adequate parking and access is provided in a safe and convenient manner, and to afford reasonable protection to adjacent land uses from light, noise, air pollution, and other effects of parking areas.

Section 19.02 Scope.

- (a) At the time any building or structure is erected, enlarged, or increased in capacity, or uses established, off-street parking and loading spaces shall be provided in all zoning districts according to the requirements of this chapter.
- (b) No parking or loading area or space which exists at the time of the adoption of this Ordinance shall thereafter be relinquished or reduced in any manner below the requirements established by this Ordinance.

Section 19.03 Location of Parking Areas.

- (a) For all residential uses the number of parking spaces required by this Ordinance shall be located on the same lot or parcel as the dwelling units served.
- (b) For all other uses the number of parking spaces required by this Ordinance shall be located on the same lot, or lots under the same ownership, within 300 feet of the building it is intended to serve, measured from the building to the nearest parking space of the on-premise parking lot.

Section 19.04 General Requirements.

- (a) **Definitions.** For purposes of determining off street parking requirements the following definitions shall apply:
 - (1) **Gross Floor Area.** The sum of all gross horizontal areas of all floors of a building or buildings, measured from the outside dimensions of the outside face of the outside wall. Unenclosed porches, court yards, or patios shall not be considered as part of the gross floor area except where they are utilized for commercial purposes such as the outdoor sale of merchandise or seating for a restaurant.
 - (2) **Usable Floor Area.** That area to be used for the sale of merchandise or services, or for use to serve patrons, clients, or customers, Such floor area which is used or intended to be used principally for the storage or processing of merchandise, hallways, stairways, and elevator shafts, or restrooms, shall be excluded from this computation of usable floor area. Usable floor area shall be measured from the interior faces of the exterior

walls, and total usable area for a building shall include the sum of the usable floor area for all floors.

- (3) **Parking Area.** For purposes of this chapter, parking area shall include the space where vehicles are parked, as well as access aisles, driveways, and loading and unloading areas.

(b) **Units of Measurement.**

- (1) Where benches, pews, or other similar seating are used as seats, each 24 inches of such seating facility shall be counted as one seat.
- (2) For requirements stated in terms of employees, the calculation shall be based upon the maximum number of employees likely to be on the premises during the largest shift.
- (3) When units of measurement determining the number of required parking spaces or loading spaces result in a requirement of a fractional space, that fraction shall be counted as a full parking space.

- (c) **Storage and Repair.** The use of semi-trailers for storage purposes within a parking area is prohibited.

- (d) **Parking Requirements for Uses Not Listed.** The minimum parking space requirements for all uses shall be as listed in Section 19.06. For uses not specifically listed in Section 19.06 the requirements shall be determined as follows.

- (1) The Zoning Administrator may establish the parking requirement by making the determination that the proposed use is similar in parking requirement to a use which is listed in Section 19.06. In such case, the same parking requirement shall apply.
- (2) If the proposed use is not similar to a use listed in Section 19.06, the Zoning Administrator shall refer to engineering or planning manuals, publications and reports, or to the parking requirements used by other municipalities in order to determine the minimum parking requirements.

- (e) **Existing Parking Lots.** Parking areas which are in existence as of the date of adoption of this chapter shall be considered legal nonconforming uses if lawfully approved under the previous regulations. Any expansion of such existing parking areas shall conform to the requirements of this chapter.

Section 19.05 Design, Location and Construction Requirements. The following provisions shall apply to all uses except one-family dwellings, two family dwellings and farms:

- (a) All drives, driveways, and parking spaces shall be surfaced with asphalt, bituminous, portland cement binder pavement or other durable and dustless

surface. Such surfaces shall be graded to dispose of all surface water and prevent drainage onto abutting properties.

In order to reduce the amount of impervious surface and the corresponding storm water runoff as well as improve parking lot aesthetics, the Planning Commission or Zoning Administrator may approve alternate parking lot surfaces for overflow parking or employee parking.

- (b) Lighting fixtures used to illuminate off-street parking areas shall be so arranged as to deflect the light away from any adjoining residential properties or streets and highways.
- (c) All off-street parking areas, including parking aisles, except those serving residential dwellings with less than four dwelling units, shall be set back a minimum of five feet from the rear and side lot lines, and a minimum of 15 feet from the front lot line. The Planning Commission may permit parking areas to encroach within the 15 foot front setback where substantial additional screening or landscaping acceptable to the Planning Commission is provided.
- (d) Parking areas shall be designed to delineate access aisles or drives and to provide drivers proper sight distance at the end of parking rows where such rows intersect access aisles or drive.

Section 19.06 Schedule of Off-Street Parking Requirements. Each use shall provide parking spaces in conformance with the following schedule of requirements:

| Use | Number of Motor Vehicle Parking Spaces Required per Unit of Measure |
|---|--|
| (a) Residential. | |
| (1) Single family, two family, or multiple family with three or more bedrooms | Two for each dwelling unit |
| (2) Multiple family with one or two bedrooms | Two for each two bedroom dwelling unit and 1.5 for each one bedroom dwelling unit. |
| (3) Mobile home parks | Two for each mobile home or mobile home site. |
| (b) Institutional/Public Assembly. | |
| (1) Churches, and other houses of worship | One space per each three seats in the main worship area |

- (2) Child care centers One space for every eight children of licensed capacity, plus one space for each employee. A minimum of three employee spaces shall be required.
- (3) Elementary schools Two spaces per classroom.
- (4) Junior high schools and middle schools Five spaces per classroom.
- (5) High schools Eight spaces per classroom, or one space per each four seats of maximum seating capacity for that indoor place of assembly having the greatest capacity, whichever is greater..
- (6) Libraries and museums One parking space per 400 square feet of gross floor area

(c) Offices.

- (1) Medical/dental clinics or offices Four spaces per 1,000 square feet of gross floor area. A minimum of six spaces shall be required.
- (2) General office buildings One space per 300 square feet of gross floor area. A minimum of four spaces shall be required.
- (3) Banks, credit unions, or savings and loans Six spaces per 1,000 square feet of gross floor area, plus two spaces per each non-drive-through automatic teller plus four on-site waiting spaces for each drive up window or drive-thru automatic teller.

(d) Retail and Service Uses.

- (1) Retail shopping centers, discount stores, and department stores containing between 25,000 and 400,000 square feet Four spaces per 1,000 square feet of usable floor area.
- (2) Retail centers containing between 400,000 and 600,000 square feet Four and one-half spaces per 1,000 square feet of floor area.

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|------|---|---|
| (3) | Retail centers containing greater than 600,000 square feet | Five spaces per 1,000 square feet of usable floor area. |
| (4) | Other retail uses not otherwise specified herein | One space per 200 square feet of usable floor area plus one per employee. |
| (5) | Supermarkets and grocery stores | One space per 200 square feet of usable floor area. |
| (6) | Personal service establishments not otherwise provided herein | One space per each 300 square feet of usable floor area plus one per employee. |
| (7) | Appliance stores | Four spaces per 1,000 square feet of gross floor area. |
| (8) | Automobile service stations | Two parking spaces per each service bay, plus one per each per each employee, plus one per each 200 square feet of retail area. A service bay and the area on each side of a gas pump may count as a parking space. |
| (9) | Automobile wash establishments (automatic) | One parking space per each employee, plus fifteen on-site waiting spaces at each wash-bay entrance, plus two drying spaces at the exit. |
| (10) | Automobile wash establishments (self-service) | One parking space per each employee, plus three on-site waiting spaces at each wash-bay entrance. |
| (11) | Barber shops, beauty salons | Two for each barber or beauty operator chair/station plus one for every two employees. |
| (12) | Building supply store, home improvement store, paint and hardware store | One space per 200 square feet of usable floor area plus one for each employee. |
| (13) | Convenience stores | Four spaces per 1,000 square feet of gross floor area. |
| (14) | Funeral homes and mortuaries | One space per 50 square feet of parlor and chapel areas. |

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|------|---|---|
| (15) | Hotel, motel, or other commercial lodging establishment | One space for each guest room, plus one for each two employees. |
| (16) | Laundromats | One space per each three washing machines. |
| (17) | Mini-storage houses/warehouses | Six spaces. |
| (18) | Motor vehicle dealerships | One space per 5,000 square feet of outdoor sales area, plus one space per sales desk/office, plus three spaces per service bay. A minimum of six spaces shall be required. |
| (19) | Restaurants without drive-through facilities | One space for each 100 square feet of usable floor area or one space for each two persons allowed within the maximum occupancy load established by the applicable code or ordinance, whichever is greater. |
| (20) | Restaurants with drive-through facilities | One space for each 100 square feet of usable floor area or one space for each one and one-half person allowed within the maximum occupancy load established by any applicable code or ordinance, whichever is greater |

(e) Recreation/Entertainment.

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|-----|----------------------------|---|
| (1) | Bowling centers | Five spaces per bowling lane. |
| (2) | Golf driving ranges | One and one-half spaces per tee. |
| (3) | Golf courses, miniature | One and one-half spaces per each hole. |
| (4) | Golf courses | Five spaces per hole. |
| (5) | Health and fitness centers | Five spaces per 1,000 square feet of gross floor area. |
| (6) | Movie theaters | One space per each four seats, plus four spaces per screen. |
| (7) | Public recreation centers | Five spaces per 1,000 square feet of gross floor area. |

(f) **Industrial Uses.**

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|-----|---|---|
| (1) | Manufacturing, light industrial, and research establishments | One and one-half parking spaces per each 1,000 square feet of gross floor area. |
| (2) | Wholesale, warehouses, or distribution facilities, and trucking terminals | One parking space per each 1,500 square feet of gross floor area or one per employee which ever is greater. |

Section 19.07 Off-Street Loading Requirements.

- (a) Off-street loading spaces shall be provided in size and quantity sufficient to prevent interference with adjacent streets or required off-street parking areas.
- (b) Required loading spaces shall not be included in the count of off-street parking spaces.
- (c) Loading spaces shall not use any portion of any public right-of-way.
- (d) Maneuvering space for trucks using the loading spaces shall be provided on the premises, and shall not necessitate the use of public right-of-way.
- (e) Loading spaces shall not be located within the front yard, nor in either front yard on each street side of a corner lot.
- (f) The design, location, and screening of off-street loading areas shall be reviewed at the time of site plan approval, so as to ensure that adequate protection is afforded to adjacent properties.

CHAPTER 20

NONCONFORMING USES

Section 20.01 Continuation of Nonconforming Uses. Except where specifically provided to the contrary, and subject to the provisions of this chapter, a lawful building or structure, and the lawful use of thereof or the use of any land or premises which is existing and lawful on the effective date of this Ordinance, or in the case of an amendment of this Ordinance, then on the effective date of such amendment, may be continued even though such building, structure or use does not conform with the provisions of this Ordinance or an amendment thereto.

Section 20.02 Expansion of Nonconforming Structure. Structures or buildings nonconforming only by reason of lot area, height, setback, parking, or other dimensional requirements may be altered only as follows:

- (a) The building, structure, parking area, or site may be changed so as to make it more closely conforming to this Ordinance, if such change does not increase the existing nonconformity.
- (b) The building, structure, parking area or site may be maintained, remodeled, and modernized, so that it is consistent with this Ordinance and does not expand the existing nonconforming use, structure, or building.

Section 20.03 Nonconforming Uses. The continued use, extension, enlargement, alteration, and remodeling of any nonconforming use, whether or not conducted in a conforming structure, shall be subject to the following conditions:

- (a) No structural alteration may be made which will change the form, character, or size of the building.
- (b) The area in a building or structure, or on a site devoted to the nonconforming use shall not be increased.
- (c) The operations conducted by a nonconforming use shall not be changed so as to create or increase noise, smoke, dust or other adverse effects.
- (d) A building, structure, or premises used for a nonconforming use may be converted to a less intensive or objectionable use, determined as follows:
 - (1) The building or premises may be changed to a use permitted by right in the same district in which the existing nonconforming use would be permitted, if the new use is required by the zoning ordinance to have the same, or less, parking and if the new use will be totally enclosed within a building.
 - (2) The structure or premises may be converted to any other proposed use which is determined by the Board of Zoning Appeals to be equally or more appropriate than the existing use, viewed in light of all the

surrounding facts and circumstances, following notice and public hearing given in the same manner as provided for a variance.

Section 20.04 Restoration and Repair.

- (a) Subject to the provisions of this chapter, nothing in this Ordinance shall prevent the strengthening or restoring to a safe condition of any part of any building or structure which is unsafe.
- (b) Subject to the provisions of subsection (c) of this section, if a nonconforming building or structure is damaged to the extent of 60 percent of its real value by fire, flood, wind or other casualty, its reconstruction and subsequent use shall be in compliance with this Ordinance. A nonconforming building damaged to a lesser extent may be restored to its size and area existing prior to such damage, and its use may then be resumed. Any such restoration must be started within a period of one year following the time of such damage and must be diligently pursued to completion.
- (c) A single family dwelling (including a single family mobile home located outside a mobile home park) that is damaged by fire, flood, wind or other casualty may be restored and its use continued, without regard to the area of usable space so destroyed, so long as the restored dwelling is at least 840 square feet in area, and provided further that if such single family dwelling so destroyed is 16 feet wide or less, it may be restored and its use continued if its width thereafter is at least 14 feet for at least three-quarters of its length. Any such restoration must be commenced within one year after such damage and must be pursued diligently to completion.
- (d) No provision of this chapter shall prevent the replacement of a nonconforming single family dwelling (including a single family mobile home located outside a mobile home park) if the replacement dwelling is at least 840 square feet in area and, provided further, that if the dwelling to be replaced is 16 feet wide or less, it may be replaced if the replacement dwelling is at least 14 feet wide for at least three-quarters of its length. For purposes of this subparagraph, a replacement dwelling must be commenced within one year after the removal of the previous dwelling and must be pursued diligently to completion.

Section 20.05 Change or Discontinuance.

- (a) The nonconforming use of a building or structure or of any land or premises shall not be:
 - (1) Changed to any other nonconforming use, except as permitted in Section 20.03(d).
 - (2) Re-established after it has been changed to a conforming use.

- (3) Re-established after being discontinued for a continuous period of six months.
- (4) Re-established if the building in which it is located is damaged by fire, wind, flood or other natural disaster, such that its replacement cost would exceed 50 percent of the fair market value of the building structure prior to damage or destruction.

CHAPTER 21

BOARD OF ZONING APPEALS

Section 21.01 Creation of Zoning Board of Appeals. The Zoning Board of Appeals (the “Board of Appeals”) is hereby created. The Board of Appeals shall have the authority and responsibilities conferred by law and this Ordinance.

Section 21.02 Membership, Appointment and Term of Office.

- (a) Membership to the Board of Appeals shall consist of three members. The first member of the Board of Appeals shall be a member of the Planning Commission. The second member may be a member of the Township Board. The remaining members of the Board of Appeals shall be appointed from among the electors of the Township, provided that no elected officer of the Township nor any employee or contractor of the Township Board may serve simultaneously as a member, or as an employee of the Board of Appeals.
- (b) The members selected from among the electors of the Township shall each serve a term of three years and until the member’s successor is appointed and qualifies; provided, however, that the terms of the members first appointed shall be for varying numbers of years, none of them exceeding three, so as to provide for differing expiration dates of members’ terms. The terms of the Board of Appeals members who are a Township Board member and a Planning Commission member shall coincide with their respective terms as members of those bodies.

Section 21.03 Officers. The Board of Appeals shall elect from its members a chairperson, vice chairperson and secretary. An officer of the Board of Appeals shall have a term of one year and until the officer's successor is elected and qualifies. An officer may be reelected. An alternate member of the Board of Appeals shall not be eligible for election as an officer of the Board, but an alternate member who is called upon to serve as a member of the Board in the absence of a regular member who is an officer of the Board may, while serving, carry out the duties of the officer in whose absence the alternate member is serving.

Section 21.04 Powers and Duties of Zoning Board of Appeals. The Board of Appeals shall have all of the powers and duties prescribed by law and by this chapter, as follows:

- (a) Hear and decide all appeals from and review any order, decision or determination made by the Zoning Administrator or other person authorized to enforce the provisions of this Ordinance.
- (b) Act upon all questions arising in the administration of the Zoning Ordinance, including interpretation of the Zoning Map and the text of the Zoning Ordinance.
- (c) Hear and decide dimensional and use variances and all other matters assigned to it for decision under the terms of this Ordinance.

- (d) The Board of Appeals shall have no jurisdiction or authority over or with regard to an appeal from any aspect or part of a determination or decision made with regard to a special land use or planned unit development.

Section 21.05 Dimensional Variances. If an applicant seeks a dimensional variance from the provisions or requirements of this Ordinance because of dimensional characteristics of a lot or parcel of land, or because of exceptional topographic or similar conditions of the land, buildings or structures, the applicant shall demonstrate through competent, material and substantial evidence on the record that all of the following exist:

- (a) That the enforcement of the literal requirements of this Ordinance would involve practical difficulties.
- (b) That special conditions or circumstances exist which are peculiar to the land, structures or buildings involved and which are not applicable to other lands, structures or buildings in the same zoning district.
- (c) That literal interpretation of the provisions of this Ordinance would deprive the applicant of property rights commonly enjoyed by other properties in the same zoning district.
- (d) That the authorizing of such variance will not be of substantial detriment to other lands and uses and will not be contrary to the spirit and purpose of this Ordinance.

Section 21.06 Use Variances. If an applicant seeks a use variance from the provisions or requirements of this Ordinance, the applicant shall demonstrate, and the Board of Appeals shall make findings based upon competent, material and substantial evidence on the whole record that all of the following exist:

- (a) That the enforcement of the literal requirements of this Ordinance would cause unnecessary hardship.
- (b) That exceptional conditions or extraordinary circumstances exist which are unique to the land, structures or buildings involved, and which are not so general or recurrent in nature so as to make reasonably practicable an amendment to this Ordinance.
- (c) That literal interpretation of the provisions of this Ordinance would deprive the applicant of a substantial property right commonly enjoyed by other properties in the same zoning district.
- (d) That the authorizing of such variance will not be of substantial detriment to the adjacent and nearby properties and will not be contrary to the spirit and purpose of this Ordinance.
- (e) No nonconforming use of nearby lands, structures or buildings shall in itself be considered grounds for the issuance of a variance.

Section 21.07 Conditions of Approval. In approving a variance, the Board of Appeals may include such terms and conditions that the Board deems reasonably necessary to carry out the intent and purposes of this Ordinance and for the protection and advancement of the public interest.

Section 21.08 Time Limitations on Variances. Any variance granted by the Board of Appeals shall not be valid after a period of twelve months from the date granted unless the owner shall have taken substantial steps, as determined by the Board of Appeals, in implementing the variance granted by the Board of Appeals; provided that the owner, upon application filed prior to the expiration of the variance, may obtain an extension of the variance for an additional period of twelve months upon showing that the expiration of the variance will cause an undue hardship to the owner.

Section 21.09 Meetings and Procedure.

- (a) The Board of Appeals shall adopt bylaws and rules of procedure as necessary to conduct its meetings and related purposes.
- (b) The Board of Appeals shall conduct business only when a majority of its members is present, including any alternate member serving in the absence of a regular member in accordance with Section 21.10. Three members shall constitute a quorum.
- (c) Meetings of the Board of Appeals shall be held at such times as the Board of Appeals may determine.
- (d) An appeal from an order, decision or determination by the Zoning Administrator or other person authorized to enforce or administer this Ordinance may be taken by any person aggrieved by such order, decision or determination.
- (e) An application for an appeal, a variance or other authorized relief shall be accompanied by payment of the required application fee and shall be filed not later than 30 days after the order, decision or determination as to which the application or appeal is taken.
- (f) After an application for an appeal, a variance or other authorized relief is complete, has been filed in proper form, and the application fee has been paid, the secretary of the Board of Appeals shall forward to the Board of Appeals the application or notice of appeal and other materials comprising the record of the matter from which the application or appeal is taken. The secretary shall also send copies of all materials to the official or body of officials from whom the appeal is taken. The application or appeal shall be scheduled by the Board of Appeals for a public hearing within a reasonable time and any required notice of hearing shall be given in accordance with Section 22.07 of this Ordinance.
- (g) The Board of Appeals shall decide all applications and appeals within a reasonable time.

- (h) The Board of Appeals may reverse or affirm, in whole or in part, or may modify, the order, decision, or determination that is being appealed. For such purpose, the Board shall be deemed to have all the powers of the Township officer or body from whom the appeal was taken. In its decision, the Board of Appeals may direct the issuance of all relevant Township permits.
- (i) The affirmative vote of a majority of the members of the Board of Appeals shall be required to reverse or affirm the order, decision or determination that is being appealed, or to grant a variance from any provision of this Ordinance; provided, however, that a use variance shall not be granted unless approved by an affirmative vote of at least a two-thirds majority of the members of the Board of Appeals.
- (j) A decision of the Board of Appeals on an appeal from a Township officer or body shall be final; provided, however, that a party aggrieved by the Board of Appeals' decision may appeal to the circuit court, within the time, to the extent and in the manner permitted by law.
- (k) Members of the Board of Appeals who are members of the Township Board or of the Planning Commission, respectively, shall not participate in or vote on matters that the members previously voted on in their respective capacities as Township Board member or Planning Commission member.
- (l) The Board of Appeals shall keep minutes of its proceedings, showing the actions of the Board.

Section 21.10 Alternate Members. The Township Board may appoint up to two alternate members of the Board of Appeals, in the same manner as regular members are appointed. An alternate member may serve as a member of the Board of Appeals in the absence of a regular member if the regular member will be unable to attend one or more meetings. An alternate member may also serve as a member of the Board for the purpose of reaching a decision in a case in which a regular member has abstained because of conflict of interest. An alternate member who is called to serve in a case before the Board shall serve in the case until a final decision is made, whether at one or more meetings. An alternate member of the Board of Appeals has the same voting rights as a regular member of the Board.

Section 21.11 Removal of Members; Conflicts of Interest.

- (a) A member of the Board of Appeals may be removed by the Township Board for misfeasance, malfeasance or nonfeasance in office, upon a written statement of the reasons or grounds for the proposed removal and after a public hearing by the Township Board. At the public hearing, the member who is proposed to be removed shall be given an opportunity to address the Township Board.

- (b) A member of the Board of Appeals shall disqualify himself or herself from voting on a matter in which the member has a conflict of interest. Failure of a member to disqualify himself or herself from voting in a matter in which the member has a conflict of interest constitutes malfeasance in office.

CHAPTER 22

ADMINISTRATION AND ENFORCEMENT

Section 22.01 Zoning Administration and Enforcement. Except as otherwise provided in this Ordinance or in other Township Ordinances, the Zoning Administrator, if one is appointed, or other authorized Township officer or employee, shall administer this Ordinance. The Township Zoning Administrator shall enforce this Ordinance, including the inspection of premises, the issuing of zoning permits and other actions and proceedings for enforcement of the provisions of this Ordinance. Alternatively, the Township Board shall administer and enforce this Ordinance.

Section 22.02 Zoning Permit Required.

- (a) It shall be unlawful for any person to commence excavation for, or construction of, any building, structure or parking area, or to make structural changes in any existing building or structure, without first obtaining a zoning permit from the Township Zoning Administrator. No building, plumbing, electrical, mechanical or other permit shall be issued until the Zoning Administrator has determined that the plans and designated use, will conform with the provisions of this Ordinance.
- (b) The application for a zoning permit shall designate the existing or intended use of the structure or premises, or part thereof which is proposed to be altered, erected, or extended, and the number of dwelling units, if any, to occupy it. The application shall be accompanied by two accurate copies of drawings, drawn to scale, showing the actual lines, angles and dimensions of the lot to be built upon or used, and the exact size and location on the lot of all existing and proposed structures and uses, and other information necessary to demonstrate compliance with the Ordinance. The Zoning Administrator, or other authorized Township official, may waive or vary portions of the foregoing requirements not necessary for determination of compliance with this Ordinance, or may require the submission of additional information which is necessary to make such a determination.
- (c) One copy of the plans and specifications shall be filed in and retained by the office of the Zoning Administrator, and the other copy shall be delivered to the applicant when the Zoning Administrator has approved the application and issued the permit.

Section 22.03 Occupancy. It shall be unlawful to use or permit the use of any structure or premises hereafter altered, extended or erected, until the Building Inspector shall have made an inspection of the premises and shall have approved the same for occupancy in writing. The Building Inspector shall not issue a certificate of occupancy until it has been ascertained that there has been compliance with all of the requirements of this Ordinance.

Section 22.04 Fees. All applicants for permits, special land use, rezoning, site condominiums, variances, site plan approval, and other land use review or approval required by this Ordinance, shall pay the fee and any escrow established by resolution of the Township Board from time to time. The Zoning Administrator, Planning Commission, Board of Zoning Appeals, and Township Board shall not consider any application for land use approval for which the required fee has not been paid, or any escrow maintained at the required level.

Section 22.05 Performance Guarantees.

- (a) The Planning Commission, Board of Zoning Appeals, and Township Board are empowered to require, as a condition of land use approval, that the applicant give financial security to ensure that all roads, landscaping, public utilities, and other improvements associated with a development are made in full compliance with all Township ordinances and conditions placed upon such land use approval. The amount of such security may be up to the full amount of the estimated cost of the improvements.
- (b) Security shall be in the form of a cashier's check payable to the Township, or by establishment of a performance bond or letter of credit in favor of the Township. Any performance bond or letter of credit shall, at a minimum: (i) be issued by a financial institution or insurer satisfactory to the Township; (ii) continue until the project is completed; (iii) and allow full or partial draws upon certification by the Zoning Administrator that improvements have not been completed as required.
- (c) Upon certification by the Zoning Administrator or other authorized Township official that all improvements have been fully completed, the Zoning Administrator shall authorize the return of all cashier's checks, or give notice that security may be terminated. A partial reduction in the amount of security may be permitted in the Zoning Administrator's reasonable discretion, as improvements are completed.
- (d) Upon premature termination or expiration of a bond or letter of credit posted as security, all work on an improvement shall be stopped until appropriate security is reestablished.

Section 22.06 Violations and Penalties.

- (a) Any person, corporation or firm who disobeys, omits, neglects or refuses to comply with any provision of this Ordinance or any permit, license or exception granted hereunder, or any lawful order of the Zoning Administrator, Board of Zoning Appeals or the Township Board issued in pursuance of this Ordinance shall be in violation of this Ordinance. Any such violation is hereby declared to be a nuisance, per se.
- (b) A violation of this Ordinance is a municipal civil infraction, for which the fine shall be not less than \$200 nor more than \$600 for the first offense and not less than \$500 nor more than \$1,000 for subsequent offenses, in the discretion of the

Court, and in addition to all other costs, damages, and expenses incurred by the Township. For purposes of this section, “subsequent offense” means a violation of the provisions of this Ordinance committed by the same person within 12 months of a previous violation of the same provision of this Ordinance for which said person admitted responsibility or was adjudicated to be responsible.

- (c) The Township Supervisor, the Township Zoning Administrator, and the Township Enforcement Officer, if any, shall have authority to issue municipal civil infraction citations for violations of this Ordinance. By resolution, the Township Board may assign such authority to other designated Township officials, whereupon such officials shall be fully empowered to issue municipal civil infraction citations for violations of this Ordinance.
- (d) Each day during which any violation continues shall be deemed a separate offense.
- (e) The foregoing penalties shall not prohibit the Township from seeking injunctive relief against a violator or such other appropriate relief as may be provided by law.

Section 22.07 Publication and Delivery of Notice of Public Hearing. Except as stated otherwise in this Ordinance, whenever a public hearing on a zoning application is required by this Ordinance or by the Michigan Zoning Enabling Act, as amended, notice of the public hearing shall be published and delivered in accordance with the requirements of this section.

- (a) The notice shall be published once, at least 15 days before to the date of the public hearing, in a newspaper of general circulation in the Township.
- (b) For applications involving the rezoning of ten or fewer adjacent properties; for applications to the Zoning Board of Appeals involving a specific parcel of land; for all planned unit development and special land use applications; and for other zoning applications as to which a public hearing is required, a notice of public hearing shall be personally delivered or shall be mailed by first-class U.S. mail to the following persons, at least 15 days before the date of the public hearing:
 - (1) The applicant; the owner of the subject property, if different from the applicant.
 - (2) All persons to whom real property is assessed for property taxes within 300 feet of the property that is the subject of the application;
 - (3) One occupant of each dwelling unit in each building that contains four or fewer dwelling units and is located within 300 feet of the subject property; and
 - (4) The owner or manager of a building containing more than four dwelling units, who shall be requested in writing to post the notice at the primary

entrance of the building, but failure of such posting shall not constitute lack of notice to the owners or occupants of such dwelling units.

If the above-described 300-foot radius extends outside the Township's boundaries, the notice shall nevertheless be provided outside of the Township's boundaries, within the 300-foot radius, to all persons stated above in this subsection.

- (c) The notice of public hearing shall include the following information:
- (1) A description of the application or request.
 - (2) An identification of the property that is the subject of the application or request. The notice shall include a listing of all existing street addresses within the property; provided, however, that street addresses do not need to be created and listed if no such addresses currently exist within the property; and provided further that street addresses do not need to be listed if eleven or more adjacent properties are being proposed for rezoning.
 - (3) The date and time when the application or request will be considered; the location of the public hearing.
 - (4) The location or address where written comments concerning the application or request will be received; the period of time within which such written comments may be submitted.

CHAPTER 23

AMENDMENTS

Section 23.01 Amendments in Zoning Ordinance. An amendment in the text of this Ordinance or an amendment in the zoning map may be initiated by the Planning Commission, by the Township Board or by any person affected by the provision or zoning designation which is requested to be changed or added.

Section 23.02 Procedures.

- (a) When amendments in the text of this Ordinance or in the zoning map are proposed by persons having an interest affected by the proposed change or addition, such person shall complete and file the application provided by the Township for such purpose. Any required fee shall be paid.
- (b) The application for an amendment in the text of this Ordinance or in the zoning map shall include a legal description of the property to be affected, or a copy of the proposed text amendment. In the case of a proposed amendment in the zoning map, a drawing shall be submitted, showing the property as to which the amendment is requested and the location of other adjacent and nearby properties.
- (c) Proposed amendments in the zoning map or in the text of this Ordinance shall be received, considered and decided upon as provided by law. Before submitting its recommendation to the Township Board, the Planning Commission shall hold at least one public hearing, with notice thereof and other aspects of such hearing to be in accordance with applicable law.
- (d) After convening a public hearing, considering the proposed amendment and making a recommendation thereon, the Planning Commission shall transmit to the Township Board the minutes of the public hearing or other meetings at which the application was considered, or the Commission shall otherwise forward to the Board such other report or information as will summarize the amendment being requested, the comments received from the public and the action taken.
- (e) The Township Board shall consider action on an application for a zoning map amendment or an amendment in the text of this Ordinance in the manner provided by law. In its discretion, the Township Board may hold additional public hearings, with notice to be given as provided by law.

Section 23.03 Resubmission of Applications. Whenever a proposed zoning map amendment or amendment in the text of this Ordinance has been considered, but has not been approved, by the Township Board, the Planning Commission shall not reconsider such zoning map amendment or such amendment in the text of this Ordinance for at least one year following the date of submission of the original application, unless the Planning Commission determines that at least one of the following conditions exist:

- (a) That the conditions or other relevant facts involved in the original denial have significantly changed;
- (b) That there are new conditions, facts or circumstances, different from those previously existing, which changed the nature of the original application or which reasonably justify a new application being submitted and considered.

CHAPTER 24

MISCELLANEOUS

Section 24.01 Severability. This Ordinance and the sections and other parts thereof are hereby declared to be severable. If any section, part or provision of this Ordinance is determined to be invalid, unconstitutional or otherwise ineffective, by a court of competent jurisdiction, the remaining parts, sections or provisions of this Ordinance shall not be affected thereby, if such other parts, sections or provisions can be given effect without those parts or portions thus declared to be invalid.

Section 24.02 Effective Date. This Ordinance shall become effective seven days after its publication or seven days after the publication of a summary of its provisions in a local newspaper of general circulation.

Section 24.03 Prior Zoning Ordinance. The prior Township zoning ordinance, being the Township zoning ordinance adopted April 18, 1978, is hereby repealed in its entirety, effective as of the date this Ordinance becomes effective.

This Ordinance was originally adopted by the Township Board of the Township of Spencer on February 15, 2000, and became effective on March 2, 2000. This text includes all amendments adopted as of December 21, 2021.

Lisa Wright, Township Clerk