

BETHANY TOWNSHIP
GRATIOT COUNTY, MICHIGAN

ZONING ORDINANCE

BETHANY TOWNSHIP, GRATIOT COUNTY, MICHIGAN

ORDINANCE 310. ZONING ORDINANCE

TITLE

An Ordinance to establish zoning districts and regulations governing the development and use of land within the zoning jurisdiction of Bethany Township in accordance with the provisions of the Michigan Zoning Enabling Act, Public Act 110 of 2006; to provide for regulations governing nonconforming uses and structures; to provide for a Zoning Board of Appeals and for its powers and duties; to provide for a Planning Commission and for its powers and duties; to provide for permits, fees, penalties and other administrative provisions to enforce this Ordinance; to provide regulations regarding conflicts with other ordinances or regulations; and to provide for the repeal of the prior zoning ordinance.

The Township of Bethany, Gratiot County, Michigan, hereby ordains:

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ARTICLE 1: PURPOSE, SCOPE, AND GENERAL EFFECT

SECTION 1.1 TITLE

This Ordinance is known as the “Bethany Township Zoning Ordinance,” and will be referred to herein as "this Ordinance.”

SECTION 1.2 INTENT AND PURPOSE

The purpose of this Ordinance is to:

- A. Promote the public health, safety, comfort, and general welfare of the inhabitants of Bethany Township by encouraging the use of lands and natural resources in accordance with their character, adaptability and suitability for particular purposes;
- B. Enhance social and economic stability;
- C. Prevent excessive concentration of population;
- D. Reduce hazards due to flooding;
- E. Regulate the height and bulk of buildings, yards, courts, and open spaces;
- F. Conserve and stabilize the value of property;
- G. Provide adequate open space for light and air and to preserve the rural character of the community;
- H. Allow for a variety of residential housing types and commercial and industrial land uses;
- I. Lessen congestion on the public and private streets and highways;
- J. Ensure adequate transportation, sewage and drainage, water supply and distribution, education, recreation and other public services and facilities;
- K. Ensure adequate food, fiber, energy and other natural resources for the Township’s citizens;
- L. Ensure appropriate locations and relationships for uses of land;
- M. Promote the use of funds for public facilities and services by establishing standards aligned with the goals, objectives and policies contained in the Township’s Master Plan; and
- N. Provide for the administration and enforcement of such standards.

SECTION 1.3 SCOPE

- A. Whenever this Ordinance is more restrictive than a provision imposed by deed, easement, covenant, law, or regulation, the provisions of this Ordinance shall govern. This Ordinance does not affect any existing easement, covenant, or other private agreement, nor does it amend, modify, or alter plat restrictions on properties within the Township.

- B.** No person or business may engage in any activity, conduct, use or venture in the Township that is contrary to federal, state, or local law. Unless otherwise provided in this Ordinance, no building may be used for a purpose other than those permitted in the appropriate zoning district. Any building, use, or lot that was 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.
- C.** No setback area or lot existing at the time this Ordinance is adopted may be reduced below the minimum requirements set forth herein. Yards, lots, or setback areas created after the effective date of this Ordinance must meet at least the minimum requirements established by this Ordinance.
- D.** Unless otherwise provided in this Ordinance, any conditions attached to a lot due to the operation of this Ordinance will remain in effect even if that lot changes ownership.
- E.** The regulations of this Ordinance are designed to be minimum regulations for promoting and protecting the public health, safety, and welfare.

SECTION 1.4 AUTHORITY

This Ordinance is authorized by the Michigan Zoning Enabling Act, MCL 125.3101, *et seq.*, as amended, and advances the goals and objectives of the Bethany Township Master Plan.

SECTION 1.5 SEVERABILITY

If a court of competent jurisdiction determines any part of this Ordinance to be unconstitutional or invalid, the determination shall only affect the specific portion found to be unconstitutional or invalid and shall not affect the validity of the Ordinance as a whole.

SECTION 1.6 REPEALER

- A.** All prior ordinances, resolutions, or parts thereof in conflict with the provisions of this Ordinance are repealed to the extent of such conflict.
- B.** The Township Board adopted this Ordinance at a meeting of the Bethany Township Board on February 11, 2020 and it shall take effect on the earliest date permitted by the Michigan Zoning Enabling Act.

ARTICLE 2: DEFINITIONS AND RULES OF CONSTRUCTION

SECTION 2.1 RULES OF CONSTRUCTION

The following rules of construction shall apply to this Ordinance:

- A.** Headings are included only for clarity and are not to be considered when interpreting this Ordinance. Headings do not enlarge or restrict any portion of this Ordinance's terms or provisions.
- B.** The illustrations contained within this Ordinance are hypothetical applications of its provisions, and do not enlarge or restrict this Ordinance in any way. If a conflict exists between an illustration and the text of this Ordinance, the text will govern.
- C.** Unless inconsistent with the context where they appear, words used in the present tense include the future tense; words in the singular include the plural; and words in the plural include the singular.
- D.** The words "shall", "will", and "must" are always mandatory and not discretionary. The word "may" is permissive.
- E.** The words "building" or "structure" are used interchangeably and include any part thereof unless specifically excluded.
- F.** The word "person" includes a natural person, firm, association, partnership, joint venture, corporation, trust, municipal or public entity, equivalent entity, or any combination thereof.
- G.** The words "used" and "occupied," includes the phrases "intended to be," "arranged to be" or "designed to be" used or occupied when referring to any land, building, or structure.
- H.** The word "erected" or "erection," includes the words "built," "constructed," "reconstructed" and "moved upon" when referring to a building or structure. These terms will also include any physical operation or work affecting the land on which the building or structure is to be erected, such as excavation, filling, drainage or similar activities.
- I.** The word "lot" includes the words "plot" and "parcel."
- J.** The word "dwelling" includes the word "residence."
- K.** The particular shall control the general.
- L.** Terms not defined by this Ordinance have their common meanings. A dictionary may be consulted when interpreting the meaning of such a term.
- M.** "Ordinance" means the text of this Ordinance as well as all maps, tables, graphics, and schedules that are included or incorporated within it.
- N.** Unless context demands otherwise, the words "and," "or," "either...or, are interpreted as follows:

1. “And” indicates that all the connected items, conditions, provisions, or events shall apply.
 2. “Or” indicates the connected items, conditions, provisions or events may apply singularly or in any combination.
 3. “Either...or” indicates that the connected items, conditions, provisions, or events shall apply singularly, but not in combination.
- O.** The “Township” is Bethany Township, Gratiot County, Michigan; the “Township Board,” “Board of Appeals” and “Planning Commission” are the Township Board, Zoning Board of Appeals, and Planning Commission of Bethany Township, respectively.
- P.** Whenever a period of time is specified by this Ordinance, the day on which the act, event, or default occurs will not be counted. The last day of that period will be included unless that day falls on a weekend or legal holiday, in which case the last day of the period will be the next business day. Legal holidays include the following:
- New Year’s Day
 - Martin Luther King, Jr. Day
 - Presidents’ Day
 - Memorial Day
 - Independence Day
 - Labor Day
 - Columbus Day
 - Veteran’s Day
 - Thanksgiving Day
 - Christmas Day

SECTION 2.2 DEFINITIONS

The following terms and words are defined as follows:

ABANDONED. The relinquishment of land or cessation of a use of the land by the owner or lessee without any intention of transferring rights to the land to another owner or of resuming that use of the land or building.

ABANDONED SOLAR ENERGY SYSTEM. Any Solar Energy System, Solar Array or combination of Photovoltaic Devices that remains nonfunctional or inoperative to the extent that it not used to generate electric energy for a continuous period of six (6) months.

ABUTTING. Having a common border with, or being separated from such a common border by, a right-of-way, service drive, or easement.

ACCESS DRIVE. An easement or right-of-way that provides motor vehicles access to one or more lots, parcels, or site condominiums.

ACCESSORY BUILDING. Any building on the same lot or adjoining lots with a main building, that is subordinate to the main building and whose use is customary and incidental to the main building’s principal use.

ACCESSORY USE – See USE.

ADULT BUSINESS. An adult business includes the following:

- A. Adult bookstore:** An establishment having, as a substantial portion of its stock in trade, books, magazines and other periodicals that are distinguished or characterized by their emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas" as hereinafter defined, or an establishment with a segment or section devoted to the sale or display of such material.
- B. Adult cabaret:** A building or portion of a building regularly featuring dancing or other live entertainment that is distinguished or characterized by an emphasis on the exhibition of "specified sexual activities" or "specified anatomical areas" as hereinafter defined for observation by patrons.
- C. Adult mini motion picture theatre:** An enclosure with a capacity for less than fifty (50) persons used for presenting material distinguished or characterized by an emphasis on matter depicting, describing or related to "specified sexual activities" or "specified anatomical areas" as hereinafter defined for observation by patrons therein.
- D. Adult motion picture theatre:** An enclosure with a capacity of fifty (50) or more persons used for presenting material distinguished or characterized by an emphasis on matter depicting, describing or related to "specified sexual activities" or "specified anatomical areas" as hereinafter defined for observation by patrons herein.
- E. Adult smoking or sexual paraphernalia store:** An establishment having, as a substantial portion of its stock in trade, paraphernalia designed or usable for sexual stimulation or arousal or for smoking, ingesting, or inhaling marihuana, narcotics, or other stimulating or hallucinogenic drugs, or related substances.
- F. Specified sexual activities:** Acts of human masturbation, sexual intercourse, or sodomy; fondling or other erotic touch of human genitals, pubic regions, buttocks or female breasts, and/or human genitals in a state of sexual stimulation or arousal.
- G. Specified anatomical areas:** Less than completely and opaquely covered human genitals, pubic regions, buttocks, or female breasts below a point immediately above the top of the areola; and/or human male genitals in a discernibly turgid state, even if completely and opaquely covered.

AGRICULTURE. Farms and general farming activities that are devoted to the production of plants or animals useful to humans, including, but not limited to, forage and sod crops, grains, feed crops, field crops, dairy products, poultry and poultry products, livestock, herbs, flowers, seeds, grasses, nursery stock, fruits, vegetables, trees (including Christmas trees), and other similar uses and activities.

AIRPORT/AIRSTRIP. A place where aircraft can land and take off that is usually equipped with hangars, facilities for refueling and repair, and various accommodations for passengers.

ALLEY. A minor right-of-way that is dedicated to public use, and which affords a secondary means of vehicular access to the back or side of properties otherwise abutting a street, but not intended for general traffic circulation.

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

ANTENNA - Any exterior transmitting or receiving device mounted on a tower, building or structure and used in communication that radiates or captures electromagnetic waves, digital signals, analog signals, radio frequencies (excluding radar), wireless telecommunications signals or other communication signals.

APARTMENT. A room or suite of rooms, including bath and kitchen facilities, in a multiple family dwelling intended and designed for use as a residence by a single family.

ASSEMBLY HALL. A building or large room used for ballrooms, banquet halls, weddings, parties, receptions, or other events.

AUTOMOBILE. Any motorized vehicle designed for travel upon the roadway, including, but not limited to, cars, light trucks, vans, mopeds, all-terrain vehicles, and motorcycles.

AUTOMOBILE REPAIR FACILITY. An establishment where the following services may be carried out: general repair of automobiles, including, but not limited to: engine rebuilding; transmission repair; oil changes; collision services such as body, frame, or fender straightening and repair; painting; glass work; upholstery; muffler repair or replacement; tire repair or replacement; and similar activities typically occur.

AUTOMOBILE SERVICE STATION. Any establishment engaged in the direct retail sale of gasoline or other engine fuels, motor oil or lubricants, or the minor servicing or repair of automobiles such as engine tune-ups, lubrication, or routine maintenance and minor repair, but not including engine overhauls, automobile painting, transmission repair, or other typical body-shop activities.

BACKHAUL NETWORK. The lines that connect a provider's towers/cell sites to one or more cellular telephone switching offices and/or long-distance providers, or the public switched telephone network.

BASEMENT. That portion of a building that is partly underground and that has most of its floor-to-ceiling height below grade. If the vertical distance from the grade to the ceiling is over five (5) feet, such basement shall be deemed a first story.

BED-AND-BREAKFAST ESTABLISHMENT. A use which is subordinate to the principal use of a dwelling as a single-family dwelling and in which transient guests do not stay more than seven (7) consecutive days and are provided a sleeping room and a breakfast in return for payment.

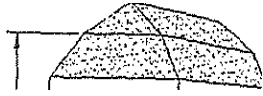
BERM. A continuous, raised earthen mound comprised of non-toxic materials with a flattened top and sloped sides, capable of supporting live landscaping materials.

BUFFER ZONE. A strip of land with landscaping, berms, or walls singularly or in combination designed to limit the impact to less-intensive neighboring uses from the noise, light, traffic, clutter, and litter associated with a particular land use.

BILLBOARD. See **SIGN**.

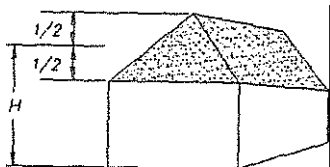
BUILDING. A structure covered by a roof and enclosed by exterior walls built, erected, and framed of component structural parts, designed for the housing, shelter, enclosure, and support of individuals, animals, or property of any kind, including temporary structures.

BUILDING HEIGHT. The vertical distance from the average grade to the highest point of the coping of a flat roof; the deck line of a mansard roof; the highest point of the highest gable of a pitch or hip roof; or the lowest point and highest point on a shed roof but not including vents, mechanical equipment, chimneys, or other such incidental appurtenances.

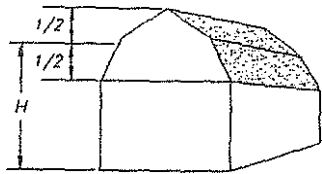


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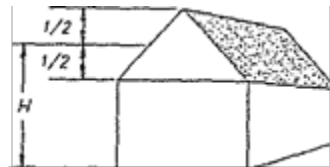
Mansard Roof



Hip Roof



Gambrel Roof



Gable Roof



Flat/Shed Roof.

BUILDING PERMIT. The written authority issued by the building inspector authorizing the construction, removal, moving, alteration, or use of a building found to be in conformity with the provisions of this Ordinance.

BUILDING SITE. A single parcel that provides the area and the open space required by this Ordinance for the construction of a building, not including all vehicular and pedestrian rights-of-way or any other easement that prohibits the surface use of the property by the owner thereof.

CABIN. Hunting and fishing cabins, trapper’s cabins, individual travel trailers and camping units, summer homes and/or vacation cottages, and other similar dwellings where the occupancy is limited to six (6) months in a calendar year and the use is served by water, sewer and electrical services which meet the Gratiot County Health Department and Building Department standards.

CAMPING. Five or fewer tents, travel trailers, or recreational vehicles, located on a single property, for use as a temporary dwelling for a period not exceeding thirty (30) days in one year.

CAMPGROUND. The use of a property for the location and use of six (6) or more tents, cabins, travel trailers, or recreational vehicles, located on a single property, for use as a temporary dwelling for a period not exceeding fourteen (14) continuous days.

CARPORT. A structure that is open on a minimum of two sides and is designed or used to shelter not more than three vehicles, and which does not exceed twenty-four (24) feet at its longest dimension.

CEMETERY. Land used for the burial of the dead, including crematoriums, mausoleums, and mortuaries. Cemeteries shall be located only on lots of at least ten (10) acres.

CERTIFICATE OF OCCUPANCY. An official certificate issued by the building official, indicating conformity with the building code and which authorizes legal occupation of the premises for which it is issued.

CHURCH. A building wherein persons assemble for religious observance or expression and that is maintained and controlled by a religious body or organization, together with permitted accessory buildings and accessory uses.

CLINIC. An establishment where human patients who are not lodged overnight are admitted for examination and treatment by physicians, psychiatrists, dentists, or similar professions.

CLUB. Fraternal and fellowship organizations, charitable service organizations, or the like, operating on a non-profit and members-only basis not open to the general public. Clubs do not include entertainment establishments such as a nightclubs or similar facilities.

CO-LOCATION, TELECOMMUNICATION PROVIDERS. Location by two or more telecommunication providers of facilities on a common structure, tower, or building, to reduce the overall number of structures required to support telecommunication antennas within the Township.

COMMERCIAL MEDICAL MARIHUANA FACILITY. Any one of the following:

- A. “Provisioning Center,” as that term is defined in the Medical Marihuana Facilities Licensing Act, Public Act 281 of 2016 (“MMFLA”);
- B. “Processor,” as that term is defined in the MMFLA;
- C. “Secure Transporter,” as that term in the MMFLA;
- D. “Grower,” as that term is defined in the MMFLA;
- E. “Safety Compliance Facility,” as that term is defined in the MMFLA.

CONDOMINIUM PROJECT. Land developments constructed in accordance with the Condominium Act (Public Act 59 of 1978), as amended, MCL 559.101 *et seq.*

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

CONTRACTOR'S ESTABLISHMENT. A business providing a service including, but not limited to, the performance of work or the provision of construction services substantially similar to the following: paving and seal coating; remodeling; caulking; chimney construction and repair; concrete work; carpentry; demolition; dry wall repair; electrical; excavating; fire and water restoration; foundation construction or repair; garage construction; gazebo construction; geothermal heating and cooling; grading; heating and ventilation; home improvements; kitchen remodeling; landscaping; masonry; mud jacking; painting; patio and deck construction; paving; pest control; pile driving; plastering; plumbing; road construction; roofing; septic or sewer services; siding installation; stucco and exterior coating; telecommunications installation; tile installation; tree removal; and plumbing services.

CONVALESCENT HOME, NURSING HOME, OR SENIOR ASSISTED LIVING HOME. A structure for the care of the aged or infirm, or a place of rest for those suffering bodily disorders who require continuous nursing care and supervision, and which typically provide support services such as meals, laundry, housekeeping, transportation, and social and recreational activities.

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

DAY CARE.

- A. Family Child Care Home.** A private home in which at least one (1) but fewer than seven (7) minor children are received for care and supervision for periods of less than twenty-four (24) hours a day, unattended by a parent or legal guardian, except children related to an adult member of the family by blood, marriage, or adoption. Family child care homes includes homes in which care is given to an unrelated minor child for more than four (4) weeks during a calendar year.
- B. Group Child Care Home.** A private home in which more than six (6), but not more than twelve (12), minor children are given care and supervision for periods of less than twenty-four (24) hours a day, unattended by a parent or legal guardian except children related to an adult member of the family by blood, marriage, or adoption. Group child care homes includes homes in which care is given to an unrelated minor child for more than four (4) weeks during a calendar year.
- C. Commercial Day Care.** A facility, other than a private residence, receiving minor children or adults for care for periods of less than twenty-four (24) hours in a day, for more than two (2) weeks in any calendar year. Child care and supervision provided as an accessory use, while parents are engaged or involved in the principal use of the property, such as a

nursery operating during church services or public meetings, or by a fitness center or similar operation, shall not be considered a Commercial Day Care.

DECK. A floored structure, connected to a dwelling and raised above grade, typically consisting of footings, posts, and steps which may or may not include a railing.

DENSITY. The number of dwelling units situated on or proposed to be situated on an acre of land, excluding any area devoted to public rights-of-way or easements.

DETENTION AREA. A structure or facility, natural or artificial, which stores storm water on a temporary basis and releases it at a controlled rate.

DISTRICT. A portion of the Township within which, on a uniform basis, certain uses of land and buildings are permitted and within which certain regulations and requirements apply.

DRIVEWAY. That portion of a lot upon which or through which vehicles travel from a road to a dwelling or other improvement located on a lot or parcel.

DRIVE-THROUGH BUSINESS. A retail or service establishment, including restaurants, that is wholly or partially dependent on providing a driveway approach and service windows or facilities for vehicles in order to serve patrons while in their vehicles.

DRY-CLEANING PLANT. A large-scale facility where fabrics are cleaned with substantially non-aqueous organic solvents on an industrial or wholesale basis.

DWELLING. Any structure erected on property designed or used for residential purposes.

DWELLING, MULTIPLE-FAMILY. A structure containing three or more single dwelling units under one common roof.

DWELLING, SINGLE-FAMILY. A dwelling used primarily as a residence by one family. The use may be for year-round or seasonal occupancy by the owner or occupant.

DWELLING, TWO-FAMILY (DUPLEX). A structure containing two separate dwelling units, one unit having a minimum of seven hundred and twenty (720) square feet and the other having a minimum of six hundred forty (640) square feet, designed for residential use by no more than two families and connected by either a common wall or an attached private garage area.

DWELLING UNIT. A structure, or part of a structure, providing complete living facilities, including provisions for sleeping, cooking, eating, and sanitation, and which is designed for residential use by no more than one family.

EASEMENT. A grant of one or more property rights in a lot by the owner of that lot to another.

ESSENTIAL SERVICE. The erection, construction, alteration, or maintenance by public utilities, municipal departments, or other public or private agencies of underground, surface or overhead emergency, gas, electrical, communication, steam or water transmission, or distribution, collection, supply or disposal of the same. Essential services includes any facilities incidental to the aforementioned activities, including, but not limited to: including towers, poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, police and other call boxes, traffic signals,

hydrants, electric sub-stations, gas regulator stations, fire, police and EMS stations, but not offices, buildings, or yards used for bulk storage, fabrication or manufacturing of materials used by the entity providing the essential service. Telecommunication towers or facilities, alternative tower structures, and wireless communication antennae are not essential services for purposes of this Ordinance.

FAA. Federal Aviation Administration.

FAMILY. An individual or group of two (2) or more persons related by blood, marriage, adoption, or guardianship living together as a single household. A family shall also be defined as not more than six (6) persons living together as a single household who are not related by blood, marriage, adoption, or guardianship.

FARM. The land, plants, animals, structures, machinery, equipment, and other appurtenances used in the commercial production of farm products.

FCC. Federal Communications Commission.

FENCE. A barrier structure used as a boundary or means of protection, enclosure, obfuscation, or confinement, but not including a barrier made of vegetation.

FILLING. Depositing or dumping any matter onto, or into, the ground, except common household gardening and ground care.

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

FLOOD HAZARD AREA. The relatively flat areas or lowlands adjoining a river, stream, water course, or lake that are inundated by a flood discharge that results from a one hundred (100) year storm frequency of twenty-four (24) duration, including the stream channel and overbank area (the floodway) and the fringe areas of the floodway.

FLOODPLAIN. For a given flood event, that area of land adjoining a continuous watercourse that has been covered temporarily by water.

FLOOR AREA. The sum of the gross horizontal floor areas of all stories of a building as measured to the exterior face of the exterior walls. Floor area does not include cellars, basements, attached private garages, attics, unheated breezeways, or porches.

FLOOR AREA, USABLE. All ground and non-ground floor area used for, or intended to be used for, the sale of merchandise or services or for use to serve patrons, clients or customers, but not including floor area used or intended to be used principally for the storage or processing of merchandise, or for utilities.

FOOTPRINT. The ground area occupied within the exterior foundation walls of a structure, excluding any detached accessory buildings and any unenclosed or un-walled portions of a building or structure, such as decks, balconies, etc.

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

of meeting a lot minimum frontage requirement on a street cul-de-sac, or for other odd-shaped lots, the lot width may be measured at the minimum setback or principal building line.

FUNERAL HOME. A building, or part thereof, used for funeral services such as *(i)* embalming and the performance of services used in preparation of the dead for burial; *(ii)* the performance of autopsies and other surgical procedures; *(iii)* the storage of caskets, funeral urns and other related funeral supplies; and *(iv)* the storage of funeral vehicles, but not including facilities for cremation. Funeral homes may also include a funeral chapel.

GARAGE, PRIVATE. An accessory structure used for the storage of vehicles and for other incidental storage.

GARAGE, PUBLIC – A structure, whether standalone or accessory, operated for gain, which allows the public or a subset of the public to temporarily park vehicles.

GOLF COURSE. A tract of land used for playing golf, including any buildings and structures incidental and subordinate to that use, but not including standalone driving ranges or miniature golf courses.

GRADE. The average level of natural or finished ground on a particular parcel.

GREENBELT. A strip of land of definite width and location reserved as a landscaped area to serve as an obscuring screen, noise abatement measure, or visual enhancement.

GREENHOUSE. A building whose roof and sides are made primarily of glass or other non-opaque material and in which the temperature and humidity can be regulated for the cultivation of delicate or out-of-season plants.

GROUND COVER. Low-growing plants, including grasses, that form a dense, extensive growth after one (1) complete growing season and which tend to prevent weed growth and soil erosion.

GUARANTEE. A cash deposit, certified check, irrevocable bank letter of credit, or such other instrument acceptable to the Township.

HAZARDOUS MATERIALS. Any substances or materials that, by reason of their toxic, caustic, corrosive, abrasive, explosive or otherwise injurious properties, may be detrimental to the health of any person handling or otherwise coming into contact with such materials or substances.

HEIGHT, TOWER AND ANTENNA. The distance measured from the finished grade of a parcel to the highest point on the tower or other structure, including the base pad and any antenna.

HOME IMPROVEMENT CENTER. A commercial retail facility for the sale of building materials, tools, and hardware customarily used in the construction of structures, including facilities for the storage of materials.

HOME OCCUPATION. An occupation or profession, including instruction in a craft or fine art, carried on by an occupant of a dwelling unit, within that structure only, as a secondary use which is clearly ancillary to the use of the dwelling for residential purposes.

HOSPITAL. An institution providing health service and medical or surgical care of the sick or injured, primarily for inpatients. The term shall also include as an integral part of the institution such related facilities as laboratories, adjoining out-patient departments, training facilities, central service facilities and staff offices.

INDOOR RECREATION ESTABLISHMENT. A facility designed and equipped for sports, amusement or leisure time activities conducted within an enclosed building, such as fitness centers, gymnasiums, bowling alleys, indoor softball, and racquetball and tennis clubs.

JUNK. Any vehicle, machinery, appliance, product, scrap metal, or other trash, rubbish, refuse, paper, building materials and equipment, bottles, glass, appliances, furniture, beds and bedding, rags, rubber, plastic, cordage or any other trash, rubbish, or refuse, whether or not the same could be put to any use, except if in a completely enclosed building. Junk includes any inoperable or abandoned vehicle that is not currently licensed for use upon the highways of the State of Michigan and shall also include, whether so licensed or not, any motor vehicle that is inoperative for any reason and that is not in a completely enclosed building.

JUNK YARD. Any parcel of land where junk, waste, used, or secondhand materials are bought and sold, exchanged, stored, baled, packed, disassembled, or handled, including any premises upon which two (2) or more unlicensed or inoperable vehicle is kept or stored for a period of thirty (30) days or more. Junk yards do not include facilities engaged in the above activities where all materials are entirely stored within fully-enclosed structures.

KENNEL. Any parcel on which six (6) or more dogs, cats or other domestic animals are either permanently or temporarily kept for sale, boarding, breeding or training, whether or not for a fee. The keeping of six (6) or more dogs, cats or other domestic animals, whether or not for a fee, shall constitute a kennel, except for those animals raised for agricultural use or consumption.

LABORATORY. An establishment that engages in research, testing, or evaluation of materials or products.

LAND USE PERMIT. The written authority issued by the Zoning Administrator indicating that a proposed structure or use of land is in compliance with the requirements of this Ordinance.

LANDSCAPING. The treatment of the ground surface with live plant materials such as, but not limited to, grass, ground cover, trees, shrubs, and vines, or decorative natural materials such as wood chips, rocks, boulders, or mulch. Structural features such as fountains, pools, statues and benches shall also be considered a part of landscaping if provided in combination with live plant material.

LAUNDROMAT. A commercial retail facility where patrons wash, dry, and/or dry-clean clothing in machines that are operated by the patron. Laundromats also include similar facilities where fabrics are accepted from patrons for future, off-site cleaning, with limited, if any, actual cleaning of those garments occurs, such as a dry-cleaning intake facility.

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

LOT. A parcel of land that is or may be occupied by a building or land use, along with any related accessory structures, in conformance with platted lot lines. The word "lot" shall include plat, parcel or condominium site.

LOT OF RECORD. A parcel of land, the dimensions of which are shown on a document or map on file with the County Register of Deeds or in common use by Township or County officials, and which actually exists as shown thereon.

LOT AREA. The total area included within a property's lot lines, but not including any portion of the property within the public right-of-way.

LOT COVERAGE. The percentage of a lot that is covered by structures including all porches, decks, arbors, breezeways, patio-roofs and accessory buildings, but not including, fences, walls, or hedges.

LOT DEPTH. The average of the shortest and longest distances from the front lot line to the rear lot line.

LOT, CORNER. Any lot having frontage on two intersecting streets or upon two portions of a turning street.

LOT, DOUBLE FRONTAGE. Any interior lot having frontage on two roughly parallel streets.

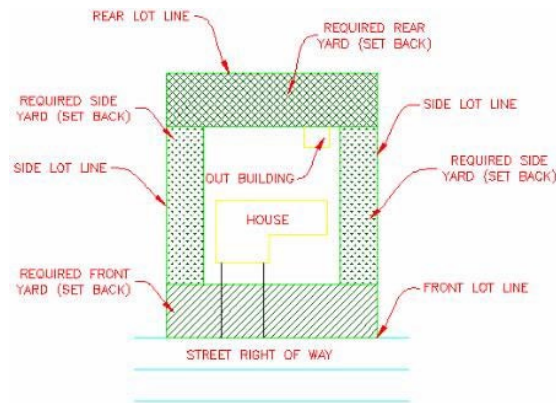
LOT LINE. The line that separates the lot, parcel, or general common element from another lot, parcel, general common element, existing street right-of-way, approved private road easement, or the ordinary high-water mark.

LOT LINE, FRONT. In the case of an interior lot, a line separating a lot or parcel from a street right-of-way (refer to Figure 1). In the case of a corner lot, a line separating the narrowest street frontage of a lot from the street.

LOT LINE, REAR. The lot line which is opposite and most distant from the front lot line. In the case of an irregular- or triangular-shaped lot, a line at least ten (10) feet in length, entirely within the lot, and generally parallel to and most distant from the front lot line (refer to Figure 1). In the case of a lake or canal lot, the ordinary high-water mark.

LOT LINE, SIDE. Any lot line not a front or rear lot line (refer to Figure 1).

Figure 1: Lot Lines and Minimum Required Yards



LOT LINE, STREET. The lot line that divides a lot from the outside edge of the right-of-way.

LOT WIDTH. The average horizontal distance measured between side lot lines parallel to the front lot line.

MARIHUANA. That term as defined in Section 7106 of the Michigan Public Health Code, 1978 PA 368, MCL 333.7106.

MARIHUANA ESTABLISHMENT. Any one of the following:

- A. “Marihuana grower” as that term is defined in the Michigan Regulation and Taxation of Marihuana Act, Initiated Law 1 of 2018 (“MRTMA”);
- B. “Marihuana processor” as that term is defined in the MRTMA;
- C. “Marihuana secure transporter” as that term is defined in the MRTMA;
- D. “Marihuana safety compliance facility” as that term is defined in the MRTMA;
- E. “Marihuana retailer” as that term is defined in the MRTMA;
- F. “Marihuana microbusiness” as that term is defined in the MRTMA;
- G. “Excess Marihuana Grower” as that term is defined by the Department of Licensing and Regulatory Affairs or as may be defined in the MRTMA;
- H. “Marihuana Event Organizer” as that term is defined by the Department of Licensing and Regulatory Affairs or as may be defined in the MRTMA;
- I. “Temporary Marihuana Event” as that term is defined by the Department of Licensing and Regulatory Affairs or as may be defined in the MRTMA;

- J. “Designated Consumption Establishment” as that term is defined by the Department of Licensing and Regulatory Affairs or as may be defined in the MRTMA;
- K. Any other type of marihuana-related business licensed by the Department of Licensing and Regulatory Affairs or as may be defined in the MRTMA.

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

MARINA. A dock or basin providing secure moorings for pleasure or commercial boats, which may offer supply, repair, and other related services or facilities.

MASSAGE STUDIO. An establishment offering massage therapy or body work by a massage therapist licensed under Michigan law or under the direct supervision of a licensed physician.

MASTER PLAN. The Bethany Township Master Plan adopted pursuant to the Michigan Zoning Enabling Act or the Michigan Planning Enabling Act.

MASTER DEED. The condominium document recording the condominium project to which are attached as exhibits and incorporated by reference the bylaws for the project and the condominium subdivision plan for the project, along with any other requirements of the Michigan Condominium Act, MCL 559.101 *et seq.*

MEDICAL MARIHUANA. That term as defined in MCL 333.26423.

MINING AND EXTRACTION OPERATIONS. Any pit excavation or mining operation for the purpose of searching for, removing, or processing peat, gravel, sand, clay, earth, or other soils, or marble, stone, slate, or other non-metallic mineral in excess of fifty (50) cubic yards in any calendar year, including the overburdening, storage or transporting of such items on a mining and extraction site, or the reclamation of the site after removal or excavation of such items, not including an oil or gas well. The following activities are not considered a mining and extraction operation and are exempt from the special use permit requirements of this Ordinance:

- A. Excavation approved by a governmental body of competent jurisdiction in conjunction with the installation or maintenance of publicly owned or operated utilities, drainage facilities, roads, or other publicly owned or operated improvements, where the excavation is limited to the site of the public utility or improvement.
- B. Excavation that by its nature is of limited scope and duration and that is undertaken primarily for the immediate use and development of the land excavated, such as for purposes of building construction, septic tanks, swimming pools, graves, etc.
- C. Excavation in conjunction with farming operations conducted in accordance with generally accepted agricultural management practices.

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 plumbing, HVAC, and electrical system in the structure. "Mobile home" does not include a

recreational vehicle or motor home not designed for permanent installation on a structural foundation.

MOBILE HOME PARK. Any site, lot, field, or tract approved by special use permit for use by two or more mobile homes, including any buildings, vehicle, or enclosure used or intended for use as part of the equipment of such mobile home park licensed and regulated by the Michigan Mobile Home Commission.

MOTEL. A building or part of a building, other than a dwelling, consisting of attached, semi-detached, or detached rental units containing a bedroom, bathroom, and closet, used for the commercial accommodation of transients for compensation in rooming units, with either a common entrance or separate entrances for individual units.

MUSEUM. An institution, including art galleries, for the collection, display, and/or distribution of objects of art or science, and which is typically sponsored by a public or quasi-public agency and is generally open to the public.

NATIVE VEGETATION, TREES, OR LANDSCAPE. Plant species that are native to Michigan and characteristic of an area's pre-settlement landscape

NONCONFORMING STRUCTURE. A structure, or portion thereof, lawfully existing at the time this Ordinance or amendments become effective and that does not conform to the regulations of the district in which it is located or to the requirements of this Ordinance as a whole.

NONCONFORMING USE. See "Use"

NUISANCE. An offensive, annoying, unpleasant, or obnoxious thing or practice, especially a continuing or repeated invasion of any physical characteristics of activity or use across a property line that affects a human being. Nuisances include, but are not limited to, the generation of an excessive or concentrated movement of people, noise, dust, smoke, odor, glare, fumes, flashes, vibration, objectionable effluent, or the invasion of street frontage by traffic generated from an adjacent land use that lacks sufficient parking and circulation facilities.

NURSERY. A commercial sales establishment for the growth, display, and sale of plants, shrubs, trees, or other materials used in indoor or outdoor planting and landscaping.

OFFICIAL MAP. The map incorporated by reference in this Ordinance that designates the boundaries of the zoning districts.

OPEN AIR BUSINESS. A business that involves activities for the display and sale of goods, products and objects outside of a building, including the display and sales of motor vehicles, bicycles, trailers, swimming pools, snowmobiles and boats; rental equipment and services; mobile homes; flea markets, lawn furniture, playground equipment, and other home garden supplies and equipment, cemetery monuments, and similar uses.

OPEN SPACE. That part of a lot that is open and unobstructed by any built features from its lowest level to the sky and is accessible to all residents upon the lot. This area is intended to provide light and air, and is designed for environmental, scenic, agricultural, or recreational purposes. Open space may include, but is not limited to lawns, decorative plantings, walkways, active and passive recreation areas, playgrounds, fountains, swimming pools, living plant materials, wetlands,

and water courses. Open space shall not be deemed to include required setbacks for lots, storm water retention and detention areas, driveways, parking lots or other surfaces designed or intended for vehicular travel except for buildings and access routes to support allowed uses cited above.

OFF-STREET PARKING LOT. A facility providing vehicle parking spaces, along with adequate drives and aisles for maneuvering, so as to provide access for ingress and egress associated with the temporary parking of vehicles.

OPEN-FRONT STORE. A commercial structure, not otherwise defined by this Ordinance, designed so that service to customer may be provided beyond the walls of the structure without requiring customers to enter the structure.

ORDINARY HIGH-WATER MARK. The line between upland and bottom land which persists through successive changes in water levels below which the presence and action of the water is so common or recurrent that the character of the land is marked distinctly from the upland and is apparent in the soil itself, the configuration of the surface of the soil, and the vegetation. On an inland lake which has a level established by law it means the highest established level. Where water returns to its natural level as the result of the permanent removal or abandonment of a dam, levee, or other water controlling device, this shall be the natural ordinary high-water mark.

OUTDOOR RECREATION ESTABLISHMENT. A facility designed and equipped for the conduct of sports, amusement or leisure time activities conducted outside of an enclosed building such as tennis courts, archery ranges, golf courses, miniature golf courses, golf driving ranges, and children's amusement parks.

OUTDOOR STORAGE. The continuous keeping, displaying, or storing of any goods, materials, merchandise, or equipment on a lot for more than a twenty-four (24) hour period.

PARK. Outdoor recreation areas where individuals and families gather for outdoor eating, socialization, and recreation. Park does not include any type of commercial development and/or any permanent artificially created thrill or amusement rides.

PARKING SPACE. An area of definite width and length designated area for parking of a single motor vehicle.

PERSON. A natural person, company, partnership, profit or non-profit corporation, limited liability company, or any joint venture for a common purpose.

PERSONAL SERVICE ESTABLISHMENTS. Commercial establishments primarily engaged in providing services generally involving the care of persons or their apparel, such as cosmetics shops, dressmaking, hair or skin care, grooming, shoe sales and repair, small appliance repair, tailoring, and similar uses.

PHOTOVOLTAIC DEVICE. A system of components that generates electric energy from incident sunlight by means of the photovoltaic effect, whether or not the device is able to store the electric energy produced for later use.

PLANNED UNIT DEVELOPMENT (PUD). A form of land development comprehensively planned as an entity via a unitary site plan that permits flexibility in building, siting, usable open

spaces, and the preservation of significant natural features. Such a development may contain a mix of housing types and nonresidential uses.

POND. A naturally or artificially confined body of still water, other than a swimming pool.

PREEXISTING TOWERS AND PREEXISTING ANTENNAS. Any tower or antenna for which a building permit or special use permit has been properly issued prior to the effective date of this Ordinance, including permitted towers or antennas that have not yet been constructed so long as such approval is current and has not expired.

PRINCIPAL USE. The main use to which a premises is devoted and the principal purpose for which a premises exists.

PRIMARY CAREGIVER. A person qualified under MCL 333.26423(g) to assist with a patient's medical use of marihuana.

PROFESSIONAL OFFICE. Rooms or buildings used for the provision of professional, executive, management, or administrative purposes, including by members of any recognized profession, such as, lawyers, accountants, engineers, architects, etc., but not including clinics.

PUBLIC SERVICE FACILITY. Uses, structures, and services associated with governmental activities or services, such as pumping stations, fire halls, police stations, temporary quarters for welfare agencies, public health facilities and activities, governmental structures and uses, and similar uses and structures.

QUALIFYING PATIENT. A "registered qualifying patient" or a "visiting qualifying patient" as those terms are defined by MCL 333.26421, et seq.

RECREATIONAL VEHICLE. A vehicle intended and designed primarily for recreational use, such as a motor home, camper trailer, boat, snowmobile, off-road and all-terrain vehicle, or similar vehicle or trailer. The term "recreational vehicle" shall not include a motorcycle or motorbike or other similar means of transportation intended primarily for daily on-street use.

RESTAURANT. Any establishment where the principal business is the sale of foods, desserts, or beverages to the customer in a ready-to-consume state, and where the design or principal method of operation includes one (1) or both of the following characteristics:

- A. Customers, normally provided with an individual menu, are served their foods, desserts, or beverages by a restaurant employee at the same table or counter where the items are consumed; or
- B. A cafeteria type of operation where foods, desserts, or beverages generally are consumed within the restaurant building.

RETAIL STORE. Any building or structure in which goods, wares, or merchandise is sold to a customer for direct consumption and not for resale. Typical retail stores include the sale of goods, apparel, accessories, furniture, home furnishing, small wares, small appliances, hardware, and food, either in isolation or combination.

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

ROAD. A thoroughfare or right-of-way dedicated to or designed for travel and access to any land, lot or parcel, whether designated as a road, avenue, highway, boulevard, drive lane, place, court, or any similar designation. All roads or any portion of a road must be dedicated to and accepted for maintenance by Bethany Township, the Gratiot County Road Commission, State of Michigan or the federal government.

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

SCREEN. A structure providing enclosure and/or visual barrier between the area enclosed and the adjacent property. A screen may also be a non-structure, consisting of shrubs or other growing materials of sufficient height and density as to provide an enclosure and/or a visual barrier

SEASONAL. A recurring activity or use, temporary in nature and in existence for no more than six (6) months of any particular calendar year, directly related to the time period in which it recurs.

SETBACK. The minimum area between the relevant lot line and the principal and accessory buildings that is not occupied by buildings and accessory structures, but on which may be located fences, trees, shrubs, and subterranean installments such as wells, sewers, septic tanks, and drain fields.

SHOOTING RANGE. An area or facility designed and operated for the use of firearms or archery.

SHOPPING CENTER. A group of separate commercial retail and service establishments, generally planned, constructed, and managed by a single entity, which provides customers and employees with a variety of good and services in a single location, along with on-site parking, delivery and loading areas separated from customer access, and an aesthetically uniform design.

SIDEWALK. A facility placed within the right-of-way of existing streets or a facility connecting with buildings, parking lots, or other activities having access to the street right-of-way, for the purpose of providing safe movement of pedestrians.

SIGN. Any device, fixture, placard or structure, including its component parts, which draws attention to an object, product, place, activity, opinion, person, institution, organization, or place of business, or which identifies or promotes the interests of any person and which is to be viewed from any public street, road, highway, right-of-way or parking area (collectively referred to as a “public area”). Signs do not include cemetery markers, vending machines, mailboxes, seasonal decorations, or a building's permanent architectural feature. Specific signs are defined as follows:

- A. Animated Sign.** Any sign that uses movement or change of lighting to depict or create a special effect or scene, or by method or manner of illumination, flashes on or off, winks, or blinks with varying light intensity, shows motion, or creates the illusion of motion or revolves in a manner to create the illusion of being on or off.

- B. Billboard.** A commercial freestanding sign which directs attention to a business, commodity, service, entertainment, or attraction sold, offered or existing elsewhere than upon the same lot where such sign is displayed.
- C. Externally Illuminated Sign.** A sign which is illuminated externally from an external light source intentionally directed upon it.
- D. Flag.** A sign consisting of a piece of cloth, fabric or other non-rigid material that is attached to a bracket or pole.
- E. Freestanding Sign.** A sign supported from the ground by one or more poles, posts, or similar uprights, with or without braces.
- F. Internally Illuminated Sign.** A sign which has the source of light not visible to the eye and entirely enclosed within the sign.
- G. Roof Sign.** Any sign erected and constructed wholly on and over the roof of a building, supported by the roof structure, and extending vertically above the highest portion of the roof.
- H. Temporary Sign.** A sign intended for a use not permanent in nature.
- I. Wall Sign.** A sign fastened to or painted on the wall area of a building or structure that is confined within the limits of the wall with the exposed face of the sign in a plane approximately parallel to the plane of such wall.
- J. Window Sign.** Any sign that is placed inside a window or upon the window panes of glass and is visible from the exterior of the window.

SINGLE WECS FOR ON-SITE SERVICE ONLY. A single WECS placed upon a lot or parcel with the intent to service the energy needs of or supplement other energy sources for only that lot or parcel upon which the single WECS is placed.

SITE CONDOMINIUM PROJECTS. Land developments constructed in accordance with the Condominium Act (Public Act 59 of 1978), as amended, MCL 559.101 *et seq.*

SITE PLAN. The documents, drawings, and related material required by this Ordinance necessary to ensure that a proposed land use or activity is in compliance with local ordinances and state and federal statutes.

SOLAR ARRAY. Any number of Photovoltaic Devices connected together to provide a single output of electric energy or other energy.

SOLAR ENERGY SYSTEM, LARGE. A utility-scale solar energy system where the primary use of the land is to generate electric energy or other energy by converting sunlight, whether by Photovoltaic Devices or other conversion technology, for the sale, delivery or consumption of the generated energy by more than one end user, and typically the power output of that system is equal to or greater than 1 megawatt.

SOLAR ENERGY SYSTEM, SMALL. A solar energy system where the sole use is to generate electric energy or other energy by converting sunlight, whether by Photovoltaic Devices or other conversion technology, primarily for personal consumption by a single end user at the same property upon which the solar energy system is located.

STABLE, PRIVATE. An accessory building in which horses are kept for private use and not for hire, remuneration, or sale, and where no more than three (3) horses are boarded.

STATE-LICENSED RESIDENTIAL FACILITY. A structure that is constructed for residential purposes that is licensed pursuant to Public Act 218 of 1979, MCL 400.701 et seq. or Public Act 116 of 1973, MCL 722.111 et seq. which provides resident services for six (6) or fewer persons.

STORAGE UNITS. A building or group of buildings in a controlled access or fenced area that contains individual compartmentalized and controlled access stalls or lockers for the storage of customer's personal or household goods that are generally not used on a daily basis, along with any individual portable unit designed for the same.

STORY. That portion of a building included between the surface of any floor and surface of the floor next above it, or if there is no floor above it, then the space between such floor and the ceiling next above it, excluding any mezzanine, balcony, basement, or attic.

STORY, HALF. A space under a sloping roof which has the line of intersection of roof decking and wall face not more than three (3) feet above the top floor level and in which space not more than two-thirds of the floor area is finished for use. A half story containing independent apartments or living quarters shall be counted as a fully story.

STREET. See **ROAD.**

STRUCTURE. Anything constructed, assembled or erected, the use of which is intended to be permanent or lasting and requires location on the ground or attachment to something having a location on or in the ground. A structure does not include wires and their supporting poles or frames or electrical or telephone utilities or to service utilities below the ground.

SUBDIVISION. The partitioning or splitting of a parcel or tract of land as defined by Act 288 of 1967, as amended.

SWIMMING POOL. An artificially contained body of water for the purpose of swimming, excluding hot tubs. A swimming pool is greater than two (2) feet deep.

TATOO AND PIERCING PARLOR. An establishment whose principle business activity either in terms of operation or as conveyed to the public, is the practice of one or more of the following: (1) placing designs, letters, figures, symbols or other marks upon or under the skin of any person, using ink or other substances that result in the permanent coloration of the skin by means of the use of needles or other instruments designed to contact or puncture the skin; (2) creation of an opening in the body of a person for the purpose of inserting jewelry or other decoration.

TAVERN. Any place where alcoholic beverages are sold for consumption on the premises.

THOROUGHFARE, MAJOR. An arterial street which is intended to serve as a large-volume right-of-way for both the immediate Township area and the region beyond and may be designated as State highway or county primary road.

THOROUGHFARE, SECONDARY. An arterial street which is intended to serve as a right-of-way serving primarily the immediate Township area and serving to connect with major thoroughfares, including county local roads.

TOWER. Any structure that is designed and constructed primarily for the purpose of supporting one or more antennas for telephone, radio and similar communications purposes, including self-supporting lattice towers, guyed towers, or monopole towers. The term includes radio and television transmission towers, microwave towers, alternative tower structures, and the like. The term includes the structure and any support thereof.

TRUCKING TERMINAL. A facility for the parking, refueling, and minor repair of semi-trucks, including facilities for the sale of food and other retail items, restaurants, or the loading, unloading, or temporary storage of trucks or cargo on a regular basis.

UNREASONABLE SAFETY HAZARD. Any condition which could reasonably be expected to create, cause, or compound the substantial likelihood that death, illness or personal injury may occur to any member of the general public, including but not limited to trespassers or emergency services personnel. Adherence by the property owner to industry standards for safeguarding against such risks will be taken into consideration in determining whether a condition poses an unreasonable safety hazard.

USE. The purpose for which land or a building is designed, arranged, or intended to be used. The following types of uses are recognized in Bethany Township:

- A. Permitted Use.** A use specified in a zoning district that is allowed by right.
- B. Special Use.** A use specified in a zoning district only allowed following issuance of a special use permit.
- C. Accessory Use.** A use not specified in a zoning district that is clearly incidental to, customarily found in conjunction with, subordinate to, and located on the same zoning lot as the principal to which it is exclusively related.
- D. Principal Use.** The principal purpose for which land or a building is arranged, designed, or intended, or for which land or a building is or may be occupied.
- E. Nonconforming Use.** A use of a building or structure or of a parcel or tract of land, lawfully existing at the time of adoption of this Ordinance or subsequent amendment thereto, that does not conform to the regulations of the zoning district in which it is situated. A nonconforming use may also be defined as provided by relevant statute and/or other law.

VARIANCE. Written authority of the Zoning Board of Appeals that permits the departure from the literal requirements relating to the dimensional requirements of this Ordinance, such as setbacks, building height, lot width, and/or lot area.

VEHICLE. Any device in, upon, or by which any person or property is or may be transported or moved upon any street, highway, trail, or waterway, excepting devices used exclusively upon stationary rails.

VEHICLE SALES FACILITY. A commercial facility offering for displaying vehicles for sale directly to customers. Commonly referred to as a “dealership”, these facilities include, but are not limited to, automobile dealerships, recreational vehicle dealerships, and manufactured home display or sales facilities.

WAREHOUSE. A building or area used for the storage of goods and materials and that may include facilities for a wholesale or retail outlet.

WECS HEIGHT. The distance between the ground (at a normal grade) and the highest point of the WECS, as measured from the ground (at a normal grade), plus the length by which the rotor blade on a horizontal mounted WECS exceeds the structure which supports the rotor and blades (normally, the tower). Or put another way, the distance between the ground (at a normal grade) and highest point of the WECS (being the tip of the blade, when the blade in the full vertical position).

WETLAND. Land characterized by the presence of water at a frequency and duration sufficient to support, and that under normal circumstances does support, wetland vegetation or aquatic life and that is commonly referred to as a bog, swamp, fen, marsh, or wet meadow.

WHOLESALE BUSINESS. An enterprise which buys or repackages products for sale to retail businesses, and whose inventory is wholly stored within an enclosed building.

WIND ENERGY CONVERSION SYSTEM (WECS). A wind-powered device for the generation of energy, commonly referred to as a wind generating tower, windmill, or wind-powered generator, consisting of a combination of:

- A. The surface area (typically a blade, rotor, or similar device), either variable or fixed, for utilizing the wind for electrical generating powers; and
- B. A shaft, gearing, belt, or coupling utilized to convert the rotation of the surface area into a form suitable for driving a generator, alternator, or other electricity-producing device; and
- C. The generator, alternator, or other device to convert the mechanical energy of the surface area into electrical energy; and
- D. The tower, pylon or other structure upon which any, all, or some combination of the above are mounted.

A WECS can also include other components not listed above but associated with the normal construction, operation, and maintenance of a wind energy conversion system.

WIND PARK. One or more WECS placed upon one or more contiguous lots or parcels with the intent to sell or provide electricity to a utility or transmission company. Although the WECS within a Wind Park may or may not be owned by the owner of the property or properties within the Wind Park, the Wind Park shall consist of all the contiguous lots and parcels located within the Township that are in whole or in part within a radius of two thousand six hundred and forty

(2,640) feet from the bases of any and all WECS within the Wind Park, unless the Township expressly provides in the special use that the applicant may use a smaller radius or that any properties may be excluded from the Wind Park. If the Township Board permits any properties within the approved radius to be excluded from the Wind Park, then such properties shall be treated for all purposes as outside the Wind Park under this Ordinance.

YARD. The unoccupied and unobstructed open spaces on the same lot with as a principal building. Yards shall be measured from the exterior faces of a structure to lots lines. Roof overhangs and cornices that project one (1) foot or less from the exterior face shall not be included in the yard measurements. Yards shall be measured from the outer edge of roof overhangs or cornice extending more than one (1) foot from the exterior face of the structure. Front and side yards and corner lots, and rear yards that abut a public or private street, shall be measured from existing public street right-of-way or private street easement lines. All required yards shall be located parallel and adjacent to property lines, or to transition strips where required.

A. *Front Yard.* The yard extending the full width of the lot and situated between a street line and the front building line (main wall of the building, including the porch, except steps), parallel to the street or water line. The depth of the front yard shall be measured at right angles to the street or water line, in the case of a straight street line, and radial to the street or water line, in the case of a curved street or water line. For double frontage lots, all yards abutting a right-of-way are consider front yards.

B. *Rear Yard.* The yard, extending the full width of the lot, between the side lot lines, and directly opposite of the front yard, parallel to the rear lot line. For double frontage lots, the rear yard shall be determined by the street address of the lot in question. In the event the rear yard of a double frontage lot also abuts a right-of-way, the more strict regulation of either rear or front yard requirements will be applied.

C. *Side Yard.* The yard situated between the side building line and the adjacent side lot lines and from the rear interior line of the required front yard to the rear interior line of the required rear yard, and parallel to the side lot line.

ZONING ADMINISTRATOR. The administrative officer responsible for enforcement and implementation of this Ordinance.

ARTICLE 3: NON-CONFORMING USES AND STRUCTURES

SECTION 3.1 INTENT AND PURPOSE

This Ordinance is intended to provide for the use of land, buildings, and structures throughout the Township. Uses that were lawfully established prior to the effective date of this Ordinance remain valid and may be permitted to continue even though those uses may be prohibited or regulated differently under this Ordinance. Despite this, such land uses, lots, and structures are declared to be incompatible with this Ordinance. The regulations of this Article have been established in order to adequately regulate the conflicts between conforming and nonconforming uses, buildings, and structures.

SECTION 3.2 NONCONFORMING LOTS

Any lot that was a non-conforming lot of record on the date this Ordinance was adopted is still considered a buildable lot for the construction of a single-family dwelling and accessory buildings. The dimensional requirements of this Ordinance, other than lot area and width requirements, must be met for such a lot to be considered buildable under this Section.

No portion of the combined lot shall be used or sold in a manner that diminishes compliance with lot area or lot width requirements of the district in which it is located, nor shall any division of the combined lot be made that creates a lot with area or width less than the requirements of the district in which it is located.

SECTION 3.3 NONCONFORMING USES OF LAND

If a lawful use on a parcel of land exists that becomes nonconforming under the terms of this Ordinance, that use may be continued, so long as it remains otherwise lawful, and is neither expanded nor extended on the same or adjoining property. The following standards apply to nonconforming uses:

- A. A nonconforming building may change from one nonconforming use to another nonconforming use, as long as no structural alterations are made to that building, and the new use is of the same or more restricted classification than the original nonconforming use. The Zoning Board of Appeals will be responsible for determining whether the proposed change will result in a more-restricted classification than the original use, and may require appropriate conditions or safeguards to ensure compliance with this Section.
- B. No nonconforming use may be enlarged, extended, or increased to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this Ordinance.
- C. No nonconforming use may be moved to any other portion of a lot.
- D. A nonconforming use may be extended to any part of a building which existed at the time of the adoption or amendment of this Ordinance, but not to any new building, or to any land outside that building.
- E. A nonconforming use may not be resumed after being converted to a permitted or special use under this Ordinance.

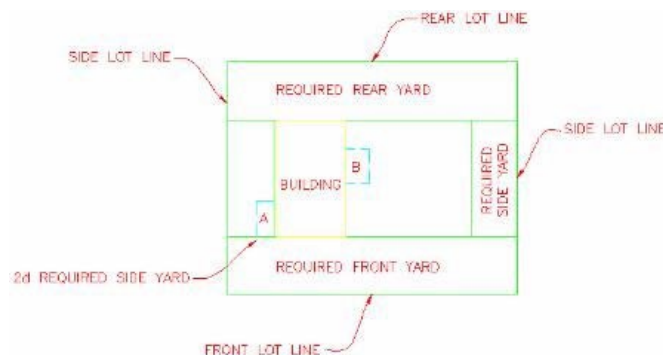
SECTION 3.4 NONCONFORMING STRUCTURES

Where a lawful structure exists at the time this Ordinance is adopted, and could not be built under the terms of this Ordinance due to the area, lot coverage, height, yards, or other characteristics of the structure or its location on the lot, that structure may be continued so long as it remains otherwise lawful, subject to the following provisions (refer to Figure 2):

- A. A nonconforming building that has been damaged by fire, explosion, Act of God, neglect, natural deterioration, or the public enemy to the extent that more than fifty (50) percent of its assessed value has been eliminated shall not be restored unless in conformity with the regulations of this Ordinance applying to the district in which that building is located. A building that has lost fifty (50) percent or less of its assessed value may be repaired, but any repair or reconstruction must be completed within one (1) year of the date the damage occurs.
- B. A non-conforming structure that is moved from its original location must conform to the regulations for the district to which it is moved as established by this Ordinance and will no longer be considered a lawful nonconforming use.
- C. No nonconforming structure may be enlarged or altered in a way which would increase its nonconformity.
- D. Nothing in this Ordinance shall prohibit the repair or modernizing of a lawful nonconforming structure to correct deterioration, obsolescence, depreciation, or wear, provided that such activity does not increase the nonconformity of the structure, or exceed the cost of fifty (50) percent of the structures assessed value.

Figure 2: Nonconforming Structures

Proposed addition "A" not permissible unless authorized by variance as it increases nonconformity. Proposed addition "B" permissible without variance as it does not increase nonconformity.



- E. A nonconforming building may be maintained in the ordinary course. This Ordinance does not prevent the strengthening or restoration of any building to ensure that building is in a safe condition upon the order of any official charged with protecting the public safety.

- F. Change in tenancy, ownership, or management of any nonconforming use or building is permitted, as long as there is no change in the nature or character of the nonconforming use.
- G. Any nonconforming property which is listed in the State or National Register of Historic Places is exempt from the requirements of this Article to the extent those requirements would unreasonably damage the historic character of the property.

SECTION 3.5 ABANDONMENT OF NONCONFORMING USE

- A. The discontinuance of any use on a premises for a period in excess of one (1) year shall be presumed to demonstrate an intent to abandon that use. A use shall not be considered abandoned if a subsequent property owner wishes to resume an identical use in the future.
- B. An abandoned use may not be reestablished unless a petition demonstrating extraordinary circumstances is filed with, and approved by, the Zoning Board of Appeals.

ARTICLE 4. DISTRICT REGULATIONS

SECTION 4.1 ESTABLISHMENT OF DISTRICTS

The Township is divided into the zoning districts as shown on the Zoning Map, which, together with all explanatory matter shown thereon, is adopted by reference as a part of this Ordinance. To carry out the purposes of this Ordinance, the Township shall be divided into the following zoning districts:

- AG Agricultural District
- R-1 Single Family Residential District
- R-2 Mobile Home Park District
- C Commercial District
- I Industrial District
- PUD Planned Unit Developments

SECTION 4.2 INTERPRETATION OF BOUNDARIES

Where uncertainty exists with respect to the boundaries of any of the districts indicated on the Zoning Map, the following rules shall apply:

- A. Boundaries shown following streets or highways shall be presumed to follow the center line of these roadways.
- B. Boundaries shown approximately following Township boundary lines or property lines are presumed to follow these lines.
- C. Boundaries following the shoreline of a stream, lake, or other body of water shall be construed to follow such shorelines. Boundaries indicated as approximately following the centerline of streams, rivers, canals, or other bodies of water shall be construed to follow such centerlines.
- D. Boundaries shown approximately parallel to the center line of streets or alleys are to be interpreted as being parallel thereto and at such a distance therefrom as indicated by given distance or scaled dimension.
- E. Where, due to the scale, lack of detail, or illegibility of the Zoning Map, there is a reasonable question as to the placement of district boundaries, interpretation of the boundary lines shall be made by the Zoning Board of Appeals upon written application, or on its own motion.
- F. Where the application of these rules leaves a reasonable doubt as to the boundaries of a district, the regulations of the more restrictive district will govern, unless otherwise determined by the Zoning Board of Appeals.
- G. It is each citizen's responsibility to know the actual boundaries, zoning district, and lot lines of any property which he or she owns or occupies. The Township is not responsible for such knowledge, and will not be liable for any errors made related to the same.

SECTION 4.3 ZONING OF VACATED AREAS

Whenever a street, alley, or other public land within the Township is vacated by official government action, those lands shall automatically attach to neighboring parcels as provided by law. Upon being attached, the vacated area will be zoned in the same manner as the parcel to which it attaches, and will be subject to the same regulations.

ARTICLE 5: SINGLE-FAMILY RESIDENTIAL (R-1) DISTRICT

SECTION 5.1 PURPOSE AND INTENT

The purpose and intent of this district is to provide for single-family dwellings and related uses in keeping with the Master Plan. The uses permitted in this district are intended to promote land uses compatible with residential uses, and are designed to keep neighborhoods relatively quiet and free of unrelated traffic influences.

SECTION 5.2 PERMITTED USES

The following uses are permitted by right in the R-1 District:

- A. Bed and breakfast establishments.
- B. Essential services.
- C. Family child care homes.
- D. Parks.
- E. Ponds.
- F. Public service facilities.
- G. Single-family dwellings.
- H. Small solar energy system.
- I. State-licensed residential facilities.

SECTION 5.3 SPECIAL USES

The following uses are permitted upon securing both a special use permit and site plan review approval:

- A. Automobile service stations.
- B. Cemeteries.
- C. Churches.
- D. Clubs.
- E. Colleges and universities.
- F. Commercial day care.
- G. Funeral Home
- H. Golf Courses.
- I. Group child care homes.

- J.** Home occupations.
- K.** Kennels.
- L.** Multiple-family dwellings.
- M.** Outdoor recreation facilities.
- N.** Planned unit developments.
- O.** Private Stables.
- P.** Public service facilities.
- Q.** Schools.
- R.** State licensed residential facilities.
- S.** Temporary dwelling units.
- T.** Two-family dwellings.

SECTION 5.4 DEVELOPMENT STANDARDS

A. Area Requirements.

1. General Requirements:

- a.** Minimum lot size: 1 acre.
- b.** Minimum lot width: 150 feet.
- c.** Maximum height: 35 feet or 2.5 stories.
- d.** Minimum front setback: 50 feet or 83 feet from the center of the road whichever is greater, except on M-46.
- e.** Minimum side setback: 20 feet.
- f.** Minimum rear setback: 25 feet.
- g.** Minimum floor area per single-family dwelling: nine hundred (900) square feet, provided the dwelling has a basement. For single-family dwellings constructed without a basement, the minimum floor area is one thousand (1,000) square feet.
- h.** Maximum lot coverage: 25%.

2. Development Standards:

- a.** A side yard abutting a street shall be no less than twenty (20) feet when there is a common rear yard. If a rear yard abuts the side yard of an adjacent lot, the side yard abutting the street shall conform to the required front yard setback.

3. Requirements for Multi-Family Dwellings:

| Dwelling Unit | Minimum Lot Area/Unit | Minimum Floor Area/Unit |
|----------------------|------------------------------|---------------------------------|
| Efficiency Apartment | 1,750 sq. ft. | 250 sq. ft.; max of 350 sq. ft. |
| 1 Bedroom | 2,000 sq. ft. | 450 sq. ft. |
| 2 Bedroom | 2,500 sq. ft. | 550 sq. ft. |
| 3 Bedroom | 3,000 sq. ft. | 650 sq. ft. |

- a.** Minimum lot size for multi-family dwellings: forty thousand (40,000) square feet.
- b.** Every lot on which a multi-family dwelling is erected shall be provided with a side yard on each side of the lot. The width of each side yard shall be increased by one (1) foot per each ten (10) feet by which the length of the multi-family dwelling exceeds forty (40) feet along the adjoining lot line.
- c.** No multi-family dwelling shall exceed one hundred eighty (180) feet in length.
- d.** No building shall be closer than forty (40) feet to the property line of any abutting residential district.

B. Dwelling Restrictions

- 1.** Except by special use permit, no more than one single-family dwelling is permitted per lot.

ARTICLE 6: MOBILE HOME PARK (R-2) DISTRICT

SECTION 6.1 PURPOSE AND INTENT

The purpose and intent of this district is to provide opportunities for Mobile Home Park living in appropriate areas of the Township. Mobile home parks should be adjacent to, and served by, major highways, and located in areas in which they can be adequately serviced by existing public services and utilities. A centralized sewage disposal system may be appropriate in this district, if approved by the County Health Department.

SECTION 6.2 PERMITTED USES

The following land uses are permitted by right in the R-2 district:

- A. Essential Services.
- B. Family child care homes.
- C. Mini-storage facilities for use by mobile home park residents.
- D. Mobile home parks.
- E. One office building used exclusively to conduct the business operations of the mobile home park.
- F. Recreation areas, community buildings, and open space reserved for use by mobile home park residents.
- G. State licensed residential facilities.
- H. Utility buildings for laundry facilities.
- I. Additional accessory buildings and uses customary and incidental to mobile home parks, but not including the sale of mobile home units by anyone other than their individual resident owner, or the servicing of mobile homes except as is required for normal maintenance.

SECTION 6.3 DEVELOPMENT STANDARDS

- A. No more than eight (8) mobile homes may occupy a space of one acre
- B. No mobile home or other structure shall be located within fifteen (15) feet of one another, within five (5) feet of a driveway or parking space, within forty (40) feet of a public right-of-way, or within twenty-five (25) feet of any park boundary.
- C. For purpose of this section, additions to a mobile home, other than those constructed of cloth, shall meet the area and yard requirements of this section.
- D. Utility wires, pipes, and tanks shall be underground, unless those structures are used as part of a central distribution system, in which case they may be maintained above the ground if fully screen from view by an opaque fence, wall, or vegetation.

- E.** Each mobile home park shall contain one or more outdoor recreation areas totaling at least three hundred (300) square feet per mobile home site. No mobile home shall be more than five hundred (500) feet from a recreation area. Rights-of-way, driveways, parking areas, and buildings are not to be included when calculating the size of a recreation area under this Section.
- F.** A greenbelt at least twenty (20) feet in width shall be located along all boundaries of a mobile home park, except where crossed by a driveway or right-of way. This greenbelt shall not be considered a recreation area under this Article.
- G.** All roads within a mobile home park shall be bounded on at least one side by a sidewalk at least three (3) feet in width.
- H.** If the parking of recreational vehicles or motor homes is allowed, such parking shall be restricted to areas surrounded by an opaque fence or wall at least six (6) feet in height.
- I.** Each mobile home park shall provide refuse containers having a capacity of no less than one cubic yard for every four mobile homes. Mobile homes shall be located to be no more than one hundred and fifty (150) feet from such a container. These containers shall be surrounded on three (3) sides by an opaque fence or wall at least six (6) feet in height.
- J.** Each mobile home park shall meet the dimensional requirements established under the authority of the Mobile Home Commission Act, Public Act 96 of 1987.

ARTICLE 7: AGRICULTURAL (AG) DISTRICT

SECTION 7.1 PURPOSE AND INTENT

This district is intended for large tracts used for farming, or farm lands which are idle, and low density single-family dwellings. Agricultural uses and other uses generally associated with agriculture, single-family residential development on larger lots, and related non-residential uses are provided within the district. The purpose and intent of this district is to preserve the agricultural land of the Township while allowing residential development and a wide range of other uses that will not detract from this end.

SECTION 7.2 PERMITTED USES

The following uses will be permitted by right in the AG District:

- A. Agriculture.
- B. Cabins.
- C. Essential services.
- D. Family child care homes.
- E. Forestry.
- F. Home Occupations.
- G. Hunting grounds and fishing sites.
- H. Nursery.
- I. Parks.
- J. Ponds.
- K. Private stables.
- L. Public service facilities.
- M. Single-family dwellings.
- N. Small solar energy systems.
- O. State-licensed residential facilities.

SECTION 7.3 SPECIAL USES

The following uses are permitted upon securing both a special use permit and site plan review approval:

- A. Agricultural Business.

- B.** Airports.
- C.** Alternative fuel manufacturing, storage and refining facilities.
- D.** Automobile service stations.
- E.** Bed and breakfast establishments.
- F.** Campgrounds.
- G.** Cemeteries.
- H.** Convalescent Home.
- I.** Churches.
- J.** Clinics.
- K.** Clubs.
- L.** Colleges and universities.
- M.** Contractor's Establishments.
- N.** Funeral Homes.
- O.** Golf Courses.
- P.** Grain and Seed Elevators
- Q.** Greenhouse.
- R.** Group child care homes.
- S.** Home Improvement Centers.
- T.** Kennels.
- U.** Commercial day care.
- V.** Large solar energy systems.
- W.** Large state-licensed residential facilities.
- X.** Mining and extraction operations.
- Y.** Motels.
- Z.** Open air businesses.

- AA.** Outdoor recreation facilities.
- BB.** Planned unit developments.
- CC.** Public service facilities.
- DD.** Riding academies and horse stables
- EE.** Schools.
- FF.** Shooting Ranges
- GG.** Storage Units.
- HH.** Telecommunication towers and antennae.
- II.** Temporary dwelling units.
- JJ.** Trucking Terminals.
- KK.** Vehicle sales facilities.
- LL.** Veterinary hospitals.
- MM.** Wildlife reserves.

SECTION 7.4 DEVELOPMENT STANDARDS

A. Area Requirements

1. Minimum lot size: 1 acre.
2. Minimum lot width: 165 feet.
3. Maximum height: 60 feet or 2 stories.
4. Minimum front setback: 50 feet or 83 feet from the center of the road whichever is greater, except on M-46.
5. Minimum side setback: 20 feet.
6. Minimum rear setback: 25 feet.
7. Minimum floor area per unit: 960 square feet.
8. Maximum lot coverage: None.

B. Dwelling Restriction

1. No more than one single-family dwelling is permitted per lot.

ARTICLE 8: COMMERCIAL (C) DISTRICT

SECTION 8.1 PURPOSE AND INTENT

The purpose and intent of this district is to provide for the establishment of shopping areas, personal services, professional offices areas and diversified business types that are primarily compatible with and of service to Township one-family residential and agricultural uses.

SECTION 8.2 PERMITTED USES

The following shall be uses permitted by right in the C District:

- A. Assembly halls.
- B. Automobile wash facilities.
- C. Banks and other lending institutions.
- D. Bed and Breakfast
- E. Bottling works and food packaging.
- F. Building supply yards, warehouses and wholesale businesses.
- G. Churches.
- H. Clinics.
- I. Clubs.
- J. Commercial Day Care
- K. Commercial printing.
- L. Convalescent Homes.
- M. Drive-in establishments
- N. Essential services.
- O. Funeral Homes.
- P. Indoor recreation establishments.
- Q. Laundromats.
- R. Motels.
- S. Outdoor assembly.

- T.** Outdoor sales.
- U.** Personal service establishments.
- V.** Professional offices.
- W.** Public service facilities.
- X.** Restaurants without drive through.
- Y.** Retail stores, including retail sale of foodstuffs; pharmaceutical and allied products; clothing and dry goods of all kinds; hardware; retail furniture and household appliances; florist shops; and video rental.
- Z.** School
 - AA.** Small solar energy systems.
 - BB.** Storage facilities.
 - CC.** Taverns.
 - DD.** Theaters.

SECTION 8.3 SPECIAL USES

The following uses are permitted upon securing both a special use permit and site plan review approval:

- A.** Adult entertainment establishments.
- B.** Automobile repair facilities.
- C.** Automobile service stations.
- D.** Car Wash
- E.** Contractor's establishments.
- F.** Drive-through businesses.
- G.** Funeral homes.
- H.** Golf courses.
- I.** Greenhouses.
- J.** Home improvement centers.
- K.** Hospitals.
- L.** Massage Studios.

- M. Museum.
- N. Motor vehicle repair facilities.
- O. Nursery.
- P. Open air businesses.
- Q. Open-front stores.
- R. Outdoor recreation establishments.
- S. Parks.
- T. Public garage.
- U. Recreational Vehicle Park.
- V. Vehicle sales facilities.
- W. Veterinary Hospitals.
- X. Shopping centers.
- Y. Storage units.
- Z. Tattoo and piercing parlors.

SECTION 8.4 DEVELOPMENT STANDARDS

A. Area Requirements

1. Minimum lot size: None.
2. Minimum lot width: None.
3. Maximum height: 45 feet or 3.5 stories.
4. Minimum front setback: 50 feet or 83 feet from the center of the road whichever is greater, except on M-46.
5. Minimum side setback: 15 feet, except 50 feet where abutting AG or R-1 property.
6. Minimum rear setback: 35 feet.
7. Minimum floor area per unit: None.
8. Maximum lot coverage: 75%.

B. Performance Standards

1. All business establishments shall be retail or service establishments dealing directly with customers. All goods produced on the premises shall be sold at retail on the premises where produced.
2. Driveways shall be kept to a minimum, and service drives and/or parking areas must be connected to neighboring lots or to the lot lines between adjoining commercial parcels.
3. All businesses, servicing or processing, except for off-street parking or loading, shall be conducted within a completely enclosed building.
4. Buffers and proper drainage devices shall be provided to ensure protection of Township water resources.
5. When applicable, any use adjacent to a roadway or other public right-of-way shall provide a sidewalk or bike path for public use.
6. All storage shall be within an approved structure or completely screened from view.
7. Storage, refuse containers, utility boxes, air handling units, or similar appurtenances must be located in the rear yard and shall be landscaped and screened from public view. Storage shall include trucks of one-ton or greater capacity.

ARTICLE 9: INDUSTRIAL (I) DISTRICT

SECTION 9.1 PURPOSE AND INTENT

The purpose and intent of this district is to primarily accommodate wholesale activities, warehousing and industrial operations whose external, physical effects are restricted to the area of the district and affect surrounding districts only to a very limited degree. The Industrial District is so structured as to generally permit the manufacturing, assembly, compounding, packaging, assembly and/or treatment of finished or semi-finished products from previously prepared material. Processing activities involving significant wasteful byproducts are discouraged.

SECTION 9.2 PERMITTED USES

The following uses are permitted by right in the I District:

- A. Alternative fuel manufacturing, storage and refining facilities.
- B. Automobile repair facilities.
- C. Automobile service stations.
- D. Building supply yards, warehouses and wholesale businesses.
- E. Kennels.
- F. Dry cleaning plants.
- G. Essential services.
- H. Heating and electric power generating plants.
- I. Home improvement centers.
- J. Industrial facilities.
- K. Laboratories, offices, and other facilities for basic or applied research, including the production of prototypes.
- L. Laundromats.
- M. Manufacturing, production, processing, storage and distribution of raw materials or finished products.
- N. Public service facilities.
- O. Small solar energy systems.
- P. Storage facilities.
- Q. Tattoo and piercing parlors.

R. Trucking terminals.

S. Warehouses.

SECTION 9.3 SPECIAL USES

The following uses are permitted upon securing both a special use permit and site plan review approval:

A. Adult businesses.

B. Airports.

C. Clinics.

D. Contractor's establishments.

E. Drive-through businesses.

F. Financial service institutions.

G. Hospitals.

H. Junk yards.

I. Laboratories.

J. Large solar energy systems.

K. Lumber mills.

L. Marinas.

M. Metal plating, buffering and polishing.

N. Mining and extraction operations.

O. Outdoor theaters.

P. Personal services establishments.

Q. Petroleum production or refining.

R. Public garages.

S. Railroad uses, not including switching yards, storage yards, storage buildings, or freight yards.

T. Restaurants without drive through.

U. Retail uses which have an industrial character in terms of either their outdoor storage requirements or activities.

V. Water or sewage treatment plants.

SECTION 9.4 DEVELOPMENT STANDARDS

A. Area Requirements

1. Minimum lot size: None.
2. Minimum lot width: None.
3. Maximum height: 60 feet.
4. Minimum front setback: 50 feet or 83 feet from the center of the road whichever is greater, except on M-46.
5. Minimum side setback: 15 feet, except 50 feet where abutting AG or R-1 property.
6. Minimum rear setback: 20 feet.
7. Minimum floor area per unit: None.
8. Maximum lot coverage: 75%.

B. Performance Standards

1. Ingress and egress drives shall be kept to a minimum. Service drives within the district shall be required. Flares or turning lanes at highway entries may be required.
2. Parking shall be accomplished in the least conspicuous manner possible, which shall ordinarily consist of locating parking in the rear of a structure, and complete enclosing all parking areas in an opaque fence or landscape barrier.
3. Lighting shall not be visible beyond property lines, nor shall it adversely affect neighboring uses or property. All lighting shall be directed downward and shall be properly shielded in order to prevent entry onto any nearby properties.
4. Storage, refuse containers, utility boxes, air handling units, or similar appurtenances shall be landscaped and screened from public view. Storage shall include trucks of one-ton or greater capacity. Trailers and transit containers must be housed within the principal structure or within an approved permanent accessory structure.
5. Buffer zones, greenbelts, and proper storm drainage devices shall be provided to ensure protection of Township creeks, streams, and lakes.
6. Landscaping shall adhere to the requirements of this Ordinance.

ARTICLE 10: PLANNED UNIT DEVELOPMENT

SECTION 10.1 PURPOSE AND INTENT

The purpose and intent of Planned Unit Developments (“PUDs”) are to furnish a beneficial and productive means to design development plans within areas of the Township designated for housing, commercial, and other uses; to provide a balanced land use pattern for residential, business, industry, and community facilities that is harmonious with surrounding uses; to encourage investment in obsolete, underused, vacant or nonconforming properties by providing an alternate development review process; to provide flexibility in overall development while ensuring adequate safeguards and standards for public health, safety, convenience, and general welfare; to provide for development in such a manner as to preserve natural resources such as forestland and open space and their accessibility to the public and to promote energy efficient development; to promote the efficient and thoughtful use of the land; to encourage a diversity of uses and mixed uses where appropriate; to repurpose existing buildings and uses for new uses and purposes, where appropriate; to provide for better design and planning of land uses by making the geography and environment of the area the standards and determinants of design, rather than the singular enforcement of lot sizes and standard setbacks; and to maintain the high degree of quality control necessary to preserve and improve the character of the Township.

SECTION 10.2 AUTHORIZED ZONING DISTRICTS

PUDs are permitted to be developed within the following zoning districts, or any combination of the following zoning districts, subject to the requirements of this Article, without the need for a rezoning to a different zoning district:

- A. R-1 One Family Residential District

- B. C Commercial District

SECTION 10.3 AUTHORIZED USES

The following uses may be authorized as part of a Planned Unit Development, after appropriate review and authorization as described herein.

- A. Residential Uses.
 - 1. Family child care homes.
 - 2. Multi-family dwellings.
 - 3. Single-family dwellings.
 - 4. State licensed residential facilities.
 - 5. Two-family dwellings.
 - 6. Any residential uses permitted by right, by conditional use permit or by special use permit in any of the underlying zoning districts.
 - 7. Accessory uses to any of the above.

B. Non-residential Uses.

1. Bakery and dairy products, retail sales only.
2. Barber and beauty shops.
3. Books or stationary shops.
4. Churches.
5. Drug stores.
6. Groceries, foodstuffs and meat markets.
7. Group child care homes.
8. Indoor recreation establishments.
9. Laundromats.
10. Offices.
11. Schools, public or private.
12. Shoe repair.
13. Tailoring and dressmaking.
14. Outdoor recreation establishments.
15. Parks.
16. Any non-residential uses permitted by right, by conditional use permit or by special use permit in any of the underlying zoning districts.
17. Accessory uses to any of the above.

SECTION 10.4 DIMENSIONAL REQUIREMENTS

The minimum project area for any PUD shall be five (5) contiguous acres of land. However, an area bounded on all sides by a public street, railroad or other external barriers may be considered for PUD regardless of acreage.

- A. Number of Dwelling Units.** The maximum number of dwelling units shall be determined by dividing the PUD area by the minimum residential lot area per dwelling unit required by the district in which the PUD is located. If the PUD is located in more than one zoning district, the number of dwelling units shall be computed for each district separately.
- B. Lot Area.** The minimum lot area that would otherwise be required may be reduced, but to no more than two-thirds (2/3) below that required in the zoning district in which the project is located.

- C. **Setback and Yards.** The minimum setback and yard or open space requirements may be reduced or increased at the discretion of the Planning Commission to avoid unnecessary disruption of the environment where reasonably equivalent open space is provided elsewhere within the PUD.
- D. **Lot Frontage.** The minimum lot frontage and width that would otherwise be required may be reduced to not less than two-thirds (2/3) of the minimum lot frontage and width required in the underlying zoning district.
- E. **Open Space.** Every PUD shall set aside, as part of the total development, an amount of open space at least equal to the aggregate accumulation of lot size reduction below the minimum lot area as a whole.

SECTION 10.5 DEVELOPMENT AND PERFORMANCE STANDARDS

The following development and performance requirements shall apply to all Planned Unit Developments (“PUD”):

- A. The PUD shall be compatible with and complement existing uses in the vicinity of the project site, as well as the Master Plan. Designs should include features demonstrating efforts to mitigate any potential negative impacts of the PUD on surrounding properties.
- B. Open space must be left undeveloped but may be landscaped. If it is landscaped, provisions for its maintenance must be provided. If land is to remain undeveloped, measures shall be taken to mitigate the negative impacts of construction, to improve natural habitat, and to prevent erosion and control drainage. A PUD should be designed in such a way that open spaces will adjoin the open spaces of neighboring properties. Areas permanently preserved for common open space shall be reserved for the use and enjoyment of the owners and residents or the general public.
- C. All public streets within or abutting the proposed PUD shall be improved to Township and County Road Commission specifications. Any access driveways within a PUD must be designed to allow emergency vehicle access and must be maintained in a manner acceptable to the Township and County Road Commission by the developer at its sole cost.
- D. PUDs shall be in harmony with the topography of the site and shall preserve watercourses, drainage areas, wooded areas, and similar natural features and areas.
- E. All utilities within a PUD shall be placed underground, unless such a requirement is determined to be non-feasible by the Planning Commission. If total underground utility installation is not possible, any above-ground utilities shall be placed in the most unobtrusive manner possible, with as much of the utility as possible being placed underground.
- F. A PUD must specify the building areas and/or plots within the Development in which structures will be located. The PUD must also provide plans illustrating the geology and ecology of any building sites, as well as the uses, geology, and ecology of surrounding properties.

- G. Unless the common land within a PUD will be retained by the developer, a property owners' association shall be formed to hold title to and to manage any land, structures, or improvements to be held in common. Any conditions associated with the approval of a PUD must be included via deed restrictions or restrictive covenants within the condominium master plan, or through similar legal restriction.
- H. The PUD must meet all the standards and requirements of the various State, County, and local agencies that have jurisdiction over the development area. No PUD shall be granted final approval until all necessary approvals are obtained, but conditional approval may be granted pending the approval of the relevant State, County, and local agencies.
- I. A development schedule, including all contiguous or adjacent land owned or controlled by the applicant, shall be submitted indicating planned phases, including construction of roads, utilities, dwellings, and amenities. An annual updated schedule shall be submitted to the Planning Commission until the entire development is completed. This annual report shall include, at minimum, the percentage complete to date and forecasted construction schedule for the remainder of the project. Approval of subsequent stages of a development shall be based upon adherence to the approved schedule or modifications agreed upon by the Planning Commission. Failure to submit an updated annual plan shall result in the automatic revocation of PUD approval.
- J. If deemed necessary, the PUD shall include Appropriate screening along its perimeter.

SECTION 10.6 CONCEPTUAL DEVELOPMENT PLAN; APPLICATION REQUIREMENTS

The following shall be submitted with any application for a PUD:

- A. Twelve copies of a PUD development plan encompassing all phases of the proposed PUD, prepared at a scale of not less than one (1) inch equals fifty (50) feet if the property is less than three (3) acres and one (1) inch equals one hundred (100) feet in all other cases, containing the following information:
 1. Name of development, applicant name, preparer name, date of preparation, written and graphic scale, North arrow, property lines and dimensions, and size of property in acres.
 2. Zoning and existing uses of all adjoining properties.
 3. Existing natural features of the site, including predominant vegetative cover, major tree stands, and existing drainage ways.
 4. Existing site improvements, including existing buildings or other structures, existing utilities and the size and location of those utilities, and any existing easements of record.
 5. Existing site elevation contours at a minimum of ten-foot intervals.
 6. If applicable, existing shoreline, existing one hundred (100) year flood hazard area, and existing wetlands.

7. Existing right-of-way lines, pavement edges, names of public streets, and the proposed layout of new public streets.
 8. Layout and dimensions of proposed lots, including building plots or pads. If the proposed PUD includes construction of buildings or other structures, a conceptual development plan shall identify proposed footprints and dimensions, as well as the proposed number of stories for each building, the proposed uses located within the PUD, and the acreage allotted to each use.
 9. Locations of proposed access driveways and parking areas.
 10. If multi-phase development is proposed, identify areas included in each proposed phase.
 11. Lot lines.
- B.** A legal description of the land to be included in the PUD.
- C.** A sketch of the vicinity of the subject property, locating the property in relation to properties, structures, streets and uses within five hundred (500) feet of the PUD. A list of any parcels within three hundred (300) feet of the PUD shall also be included.
- D.** Details of proposed project signage and lighting.
- E.** A copy of any of the following documents applicable to the project:
1. Proposed deed restrictions;
 2. Proposed restrictive covenants;
 3. Proposed condominium master plan;
 4. Proposed landowner/home owner association documents.
- F.** Details of the area and percentage of the project to be covered by building sites, impervious surface coverage, and open, undeveloped space.
- G.** The location, number, and size of parking spaces, if applicable.
- H.** A narrative statement describing the overall objectives of the PUD.
- I.** A complete application on a form supplied by the Township.
- J.** Payment of the fee established, from time to time, by resolution of the Township Board to cover the cost of the PUD project review. Additional payments may be required if the initial fee is inadequate to cover the costs of the Township's review of the proposed development, including all reasonable fees of the Township Engineer, Planner, or Attorney.

SECTION 10.7 PLANNING COMMISSION REVIEW

The Planning Commission shall review the PUD development plan at a public hearing and issue a recommendation to the Township Board. The Planning Commission's review of the PUD development plan will be based on the standards for approval of a PUD contained in this Article, and on the intent of this Ordinance as a whole. The Planning Commission may hire qualified professionals to help review a proposed development plan at the applicant's expense. The recommendation of the Planning Commission shall be transmitted in written form to the Township Board and the applicant.

- A. Review procedure.** The Planning Commission shall review the PUD development plan to ensure that:
1. The proposed uses, buildings, and structures are compatible with surrounding uses of land, or can be made compatible by imposing conditions that will mitigate the negative or incompatible effects of a PUD on surrounding land uses.
 2. The plan meets the applicable development and performance standards of this Article and of the underlying zoning district in which it is proposed to be situated.
 3. The plan meets the purposes and intent of this Article.
- B. Decision.** Based on the findings of its review, the Planning Commission shall do one of the following:
1. Recommend approval of the PUD development plan.
 2. Recommend approval of the PUD development plan approval subject to conditions and the submission of a revised development plan.
 3. Recommend denial of the PUD development plan, stating the specific reasons for the denial.

The Planning Commission's decision shall not be subject to appeal to the Zoning Board of Appeals.

SECTION 10.8 TOWNSHIP BOARD REVIEW AND DECISION

- A. Review standards.** The Township Board may but shall not be required to conduct another public hearing. The Township Board shall review the PUD development plan and the Planning Commission's recommendations to ensure that:
1. The proposed uses, buildings, and structures are compatible with surrounding uses of land, or can be made compatible by imposing conditions that will mitigate the negative or incompatible effects of a PUD on surrounding land uses.
 2. The plan meets the applicable development and performance standards of this Article and of the underlying zoning district in which it is proposed to be situated.
 3. The plan meets the purposes and intent of this Article.

B. Decision. Based on the findings of its review, the Township Board shall do one of the following:

1. Approve the PUD development plan.
2. Approve the PUD development plan subject to conditions and the submission of a revised development plan.
3. Deny approval of the PUD development plan, stating the specific reasons for the denial.

The Township Board's decision shall not be subject to appeal to the Zoning Board of Appeals.

SECTION 10.9 AMENDING AN APPROVED PUD

- A.** No changes to an approved PUD development plan shall be made except by mutual agreement of the applicant and the Township Board. Revisions to an approved final development plan or to any conditions imposed on an approval, except minor administrative changes which do not alter the layout, number of units or other details of the plan by more than 5%, shall be processed in the same manner as an application for approval of a site plan.
- B.** Minor administrative changes may be made by the Planning Commission, or the Planning Commission may delegate this responsibility to the Zoning Administrator.

SECTION 10.10 TIME LIMITATION FOR APPROVED PUD

- A.** Construction of an approved PUD shall commence and shall proceed meaningfully toward completion within one (1) year from the date of the approval of the PUD Plan by the Township Board.
- B.** The owner or applicant of the PUD may apply to the Township Board for an extension of the original approval for additional one-year terms. These extensions may be granted in the Township Board's sole discretion. In considering such authorization, the Township Board will consider the following, along with any other factors it deems to be relevant in a particular case:
 1. The PUD has encountered unforeseen difficulties beyond the reasonable control of the owner or applicant.
 2. The PUD is likely to commence and to be completed according to the schedule submitted by applicant.
- C.** If the PUD has not commenced and proceeded meaningfully towards completion at the end of the initial one-year time period, or permitted extensions thereof, then the PUD approval shall automatically be deemed void.
- D.** Notwithstanding any of the above, no PUD shall remain incomplete for a period longer than five (5) continuous years. A PUD not completed within five (5) years of being approved shall be required to reapply for new PUD approval pursuant to this Article prior to commencing or continuing construction.

ARTICLE 11: SUPPLEMENTAL USE REGULATIONS

SECTION 11.1 PURPOSE AND INTENT

In addition to the development and performance requirements set forth in the districts established above, other standards and requirements are necessary to ensure that the development of land occurs in an efficient and orderly manner. It is the intent of this Article to set forth provisions that will regulate the uses allowed in all districts.

SECTION 11.2 STANDARDS APPLICABLE TO DWELLINGS

All Dwellings shall conform to the following standards:

- A.** It contains a minimum area of nine hundred (900) square feet of habitable living area or such greater area as may be required in the district where it is located.
- B.** Except as part of an approved PUD, only one single-family dwelling is permitted per lot.
- C.** The primary portion of the structure has a minimum width of twenty (20) feet or such greater width as may be required in the district where it is located.
- D.** It complies in all respects with the Michigan Construction Code, as amended, including minimum height for habitable rooms. Where a dwelling is required by law to comply with any Federal or State standards or regulations for construction and where such standards or regulations for construction are different than those imposed by the Michigan Construction Code, then any stricter applicable Federal or State standards or regulations shall govern.
- E.** It is firmly attached to a permanent foundation constructed on the site in accordance with the Michigan Construction Code and shall have a foundation wall of the same perimeter dimensions of the dwelling and constructed of such materials and type as required in the applicable building code for single-family dwellings. If the dwelling is a Mobile Home, it shall be installed pursuant to the manufacturer's instructions and shall be secured to the premises by an anchoring system or device complying with the rules and regulations of the Michigan Mobile Home Commission and shall have a foundational perimeter wall as required above. In addition, each Mobile Home shall be installed with the wheels, axles, and towing mechanisms removed, and shall have no exposed undercarriage or chassis. The foregoing standards shall not apply to a mobile home located in a licensed mobile home park except to the extent required by State or Federal law.
- F.** It is connected to a public sewer and water supply, or to similar private facilities approved by the local health department.
- G.** It has not less than two exterior doors with at least one door in either the rear or side of the dwelling. Where a difference in elevation requires stairs, such stairs shall be permanently attached.
- H.** It contains no additions or rooms or other areas that are not constructed with similar quality workmanship as the original structure and are in compliance with the Michigan Construction Code. All such additions shall be permanently attached to the principal structure and installed with a permanent perimeter foundation.

- I. It complies with all pertinent building, construction and fire codes.
- J. It shall have a minimum width and length along its front, sides, and rear of twenty (20) feet, and shall have overhangs not less than six (6) inches on all sides.
- K. All one or two-family dwellings, other than mobile homes located inside mobile home parks, must have a pitched roof, the principle portion of which has a slope of no less than (1) vertical unit to four horizontal units. The eaves of this roof must project no less than six (6) inches beyond the walls on all sides. It shall be aesthetically compatible in design and appearance to dwellings in the neighborhood in which it is located, as determined by the Zoning Administrator. The determination of compatibility shall be based upon the character, design and appearance of residential dwellings located within one thousand (1,000) feet of the subject dwelling; or, in sparsely developed areas, by the character, design, and appearance of the residential dwellings generally found throughout the Township. The determination of compatibility shall also be based upon compliance with the following standards:
 1. The dwelling shall have a combination of roof overhang and pitch comparable to the overhang and pitch.
 2. The dwelling shall have a chimney that is constructed of a similar material and style.
 3. The dwelling shall have similar steps and/or porches which provide access to exterior doors, which are permanently attached to the ground and to the structure.
 4. The dwelling and roof shall be covered with a material which is similar in composition, color, texture, malleability, direction of joints, and method of fastening to the structure.
 5. The dwelling shall have similar windows located on the front sides, and exterior doors either on the front and rear or front and side, based on comparable dwellings.
 6. The dwelling shall not have a detached private garage, if attached private garages are typically found in the neighborhood in which it is to be located.
 7. A dwelling may be approved as aesthetically compatible in design and appearance to homes in the neighborhood in which it is to be located, even if all of the above conditions do not exist, provided it is determined that the dwelling and/or its site has other design features which make it aesthetically compatible to homes in the district.
 8. It is properly maintained and protected against deterioration and damage from the elements or the passage of time by prompt and appropriate repairs, surfacing, coating, and any other necessary protective measures.

SECTION 11.3 ACCESSORY BUILDINGS

Reasonable accessory buildings, structures, and uses supplemental to a principal building or the principal use that is permitted in any district shall also be permitted when located on the same building lot, provided that such accessory buildings and uses conform to the provisions prescribed in this Ordinance for the respective district. An accessory building may not be located on a separate lot from the principal building without a special use permit. Accessory buildings, except as

otherwise permitted in this Ordinance, are permitted in all zoning districts unless otherwise specified, and shall be subject to the following regulations:

- A.** Accessory buildings structurally attached to a principal building are subject to all regulations applicable to the principle building, and are considered a part thereof.
- B.** Accessory buildings shall not be erected in any required front yard.
- C.** Accessory buildings may be erected in a side yard when the greater of a minimum of twenty (20) feet, or the minimum setback required by a particular district, can be maintained as setback for such building.
- D.** Buildings accessory to residential buildings one story or less in height may occupy no more than 40% of the rear yard, nor any greater area than the floor area of residence.
- E.** Unless otherwise provided by this Section, no accessory building shall exceed the floor area of the principal building on parcels with lot area of one (1) acre or less. On lots greater than one (1) acre, an accessory building may occupy up to one and a half (1.5) times the floor area of the principal building. On lots greater than five (5) acres, an accessory building may occupy up to two (2) times the floor area of the principal building.
- F.** Private garages structurally attached to a main building, except where otherwise noted, are subject to all regulations applicable to the main buildings, in addition to the following:
 - 1.** To enhance the beauty of the lot and neighborhood, the private garage shall have the same exterior appearance as the primary structure on the lot.
 - 2.** A carport may be added to a private garage in any district, so long as all appropriate setbacks are met, and the carport will not add square footage.
- G.** No accessory structure, including detached garages, may be higher than one and a half (1.5) times the height, or have an area larger than, the primary structure on a lot, subject to the following exceptions:
 - 1.** Appurtenances to mechanical or structural functions, such as elevator and stairwell penthouses, ventilators, heating or air condition equipment, water storage tanks, and safety equipment, which shall be permitted to a maximum height of fifty-five (55) feet in the Commercial District, and sixty (60) feet in the Industrial District.
 - 2.** Special structures, such as chimneys or smoke stacks, shall be permitted to a maximum height of one hundred and seventy-five (175) feet in the Commercial and Industrial Districts, subject to additional regulations associated with a particular use.
 - 3.** Residential television antennae and flagpoles shall be permitted to a maximum height of forty-five (45) feet in residential districts, but in no event may such structures exceed the height of the roof peak by fifteen (15) feet.
- H.** No portion of an accessory building may be used as a dwelling.

- I. One accessory structure is permitted in each zoning district, except as permitted in the Agricultural, and Single-Family Residential Districts for parcels five (5) acres or larger.
- J. Any accessory structure with a floor area of one hundred (100) square feet or less shall not require a building or land use permit.
- K. In all zoning districts other than the Agricultural and Single-Family Residential Districts, an application for a Special Use Permit may be submitted to the Planning Commission to request an additional accessory building beyond the one permitted by this Section.
- L. All accessory structures must be located a minimum of fifteen (15) feet from any side or rear lot line, except on lots less than or equal to eight thousand (8,000) square feet in area, which shall maintain a minimum side and rear setback of ten (10) feet for accessory buildings.
- M. All detached structures accessory to a residential structure must be located at least ten (10) feet away from the principal dwelling on the lot.
- N. No temporary storage structures or trailers may be used as an accessory building.
- O. Satellite dishes must conform to the setbacks, yard restrictions, and height restrictions of this Section, except as otherwise permitted by federal law.


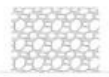


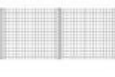

SECTION 11.4 PORCHES, DECKS, AND TERRACES

- A. Open, unenclosed porches, decks, or gazebos may project into a required rear, side or front yard, provided that the porch, deck or gazebo is located no closer than twenty-five (25) feet to any front or rear lot line, and no closer than six (6) feet to any side lot line.
- B. On waterfront lots, non-covered porches or decks may extend to the water's edge.
- C. Gazebos and covered decks are accessory buildings and must adhere to the requirements of this Ordinance unless otherwise specified in this Section.

SECTION 11.5 FENCES AND WALLS

A. Fences

- 1. Fences, walls, or screens are permitted in all yards, subject to height restrictions in some districts and sight distance requirements at drives and roadways.
- 2. Fences shall only be constructed of wood, masonry, vinyl, chain link, wrought iron, page wire, or another material approved by the Planning Commission.

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| WALLS AND FENCES |  |  |  |
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- i. No fences shall be constructed with barbed wire, unless such construction is required by law.
- ii. Snow fences may be erected temporarily to control snow, snow machines, and other nuisances only from November 1 to March 31 of the following calendar year.
- iii. Solid fences must adhere to a minimum setback of twenty-five (25) feet from any road right of way.
- iv. In all districts, up to six (6) foot fences otherwise consistent with the requirements of this Ordinance are permitted in the side and rear yard. Fences constructed in the front yard may not exceed four (4) feet in height.
- v. Fences which enclose public facilities or parks shall not exceed eight (8) feet in height, and may not obstruct visibility.

B. Walls

1. Required walls shall be located on the lot line, except where utilities would interfere with the placement of said wall, or where required to conform to front yard setbacks in lots abutting Residential Districts.
2. Walls and screening barriers shall have no openings for vehicular traffic or other purposes, except as otherwise provided in this Ordinance, or with the approval of the Zoning Administrator.
3. Walls shall be constructed of materials approved by the Zoning Administrator, and shall be constructed of durable, weather resistant, rust-proof, and easily-maintained materials such as brick, pressure treated wood, or comparable nonporous facing materials.
4. Masonry walls shall be erected on a concrete foundation which has a minimum depth of forty-two (42) inches below grade, and shall be not less than four (4) inches wider than the wall to be erected
5. Wood fences shall be sight obscuring and sufficient to shield light and block blowing debris. Masonry walls may be constructed with openings which do not exceed 20% of the surface in any square section (measured by height and width). Such openings shall

be spaced so as to maintain the obscuring character required and shall not reduce minimum height requirements.

6. Walls must be maintained in good condition by the property owner.
7. Bumper blocks shall be required where parking is adjacent to walls.
8. In all districts abutting a residential district, an obscuring wall satisfying the following standards is required:
 - i. Off-Street Parking Area: 4-6 feet high wall.
 - ii. Commercial District: 4-6 feet high wall.
 - iii. Industrial District: 5-8 foot high wall.

C. Screening Standards

1. Required berms shall be constructed as landscaped earth mounds with a crest area at least four (4) feet in width. The exterior face of the berm shall be constructed as an earthen slope. The interior face of the berm may be constructed as an earthen slope or retained by means of a wall or terrace. Any earthen slope shall be constructed with a slope not to exceed one (1) foot of vertical rise to every three (3) feet of horizontal distance.
2. Required landscaping shall consist of one (1) tree and four (4) large shrubs per each twenty-five (25) linear feet linear feet along the property line. Trees shall be either deciduous canopy trees or evergreen trees.

D. General Requirements

1. No fence, wall, shrubby, or other obstruction to vision more than thirty-six (36) inches tall is permitted in the triangular area formed by the intersection of any street right-of-way lines by a straight line drawn between said right-of-way lines at a distance along each line of twenty-five (25) feet from their point of intersection.
2. The requirements of this Section may be freely waived by the Planning Commission, if, in its discretion, these requirements would be excessive, unduly burdensome, or would not benefit the applicable property or neighboring lots. Notwithstanding the above, the maximum height requirements of this Section may not be waived without a variance.
3. A screening greenbelt may be substituted for any required wall, unless context would indicate otherwise.
4. In either the R-1 or R-2 district, entranceway structures such as walls, columns, and gates serving as entrances to a dwelling may be permitted, provided that such entranceway structures comply with all applicable laws, including the setback and other requirements of this ordinance.

SECTION 11.6 LOT REGULATION

- A.** The front lot lines of all parcels shall have continuous permanent frontage at the front lot line equal to the required parcel width. Flag lots are not permitted. In the case of cul-de-sac lots, width shall be measured from the required front yard setback line.
- B.** No portion of any lot or parcel used once to comply with the provisions of this Ordinance for yards, lot area, or any other requirement herein shall be used a second time to satisfy said requirements for any other structure or building.
- C.** In calculating lot area for lots adjoining an alley, $\frac{1}{2}$ the width of the alley abutting the lot shall be considered part of that lot.

SECTION 11.7 ESSENTIAL SERVICES

Essential services are permitted in all districts, provided that the services are authorized, regulated, and in compliance with all other applicable laws, ordinances and regulations. Buildings accessory to such services, however, are subject to the requirements set forth in this Ordinance. Telecommunication towers and antennas are not essential services.

SECTION 11.8 ROAD ACCESS REQUIREMENTS

- A.** Each lot shall have access to a public road or dedicated easement.
- B.** All road accesses shall be approved for a structure or use requiring a driveway, street or service drive before a land use permit and/or special use permit is issued.
- C.** Road access locations and separation distances, clear vision areas, throat widths and designs, queuing or stacking requirements, deceleration and acceleration lanes, service drives and other shared means of access requirements shall be reviewed as part of the land use permit, site plan review, or special land use permit process.
- D.** All land divisions, including subdivisions, condominiums, lot splits, and metes and bounds divisions, shall be reviewed under these regulations to ensure that adequate frontage will be available for proper future driveway and roadway locations and separations. No lot may be created that will cause a condition where prescribed access separations cannot be met.
- E.** No driveway areas or easements may be less than thirty-three (33) feet wide.
- F.** All driveways must adhere to the access requirements and standards of the Gratiot County Road Commission.
- G.** Any lot created in the Commercial or Industrial districts after the effective date of this Ordinance shall have a hard-surfaced approach to a public street.

SECTION 11.9 TEMPORARY OUTDOOR USES

- A.** Temporary outdoor uses may be permitted in any zoning district, provided that the temporary use is similar in nature to those uses permitted in the district as determined by the Zoning Administrator. A land use permit identifying the location, sponsoring group or individual, and beginning and ending dates of the use shall be obtained from the Zoning

Administrator. The Zoning Administrator shall determine whether the use is appropriate at the proposed site within the district and shall determine any necessary site conditions, such as off-street parking and other health, safety and welfare issues.

- B. Temporary outdoor uses, except camping, may be authorized on lots of five (5) acres or more in the Agricultural and Residential Districts for not more than a thirty (30) day period, and not less than thirty (30) days shall elapse between the end of one authorized temporary outdoor use period and the beginning of another for the same proposed site within the district.
- C. Camping may be authorized as a temporary outdoor use pursuant to the following standards:
 - 1. Camping may be permitted for seven (7) days in the Agricultural or Residential Districts on lots smaller than five (5) acres. Once per year, a camping permit described by this subsection may be extended for up to fifteen (15) days by the Zoning Administrator.
 - 2. Camping may be permitted for thirty (30) days in the Agricultural or Residential Districts on lots five (5) acres or larger. Once per year, a camping permit described by this subsection may be extended for up to fifteen (15) days if approved by the Zoning Administrator.
 - 3. At least thirty (30) days must elapse between each period discussed above.
 - 4. This Subsection shall not be construed as applying to cabins or campgrounds.

SECTION 11.10 REQUIRED WATER SUPPLY AND SANITARY SEWERAGE FACILITIES

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

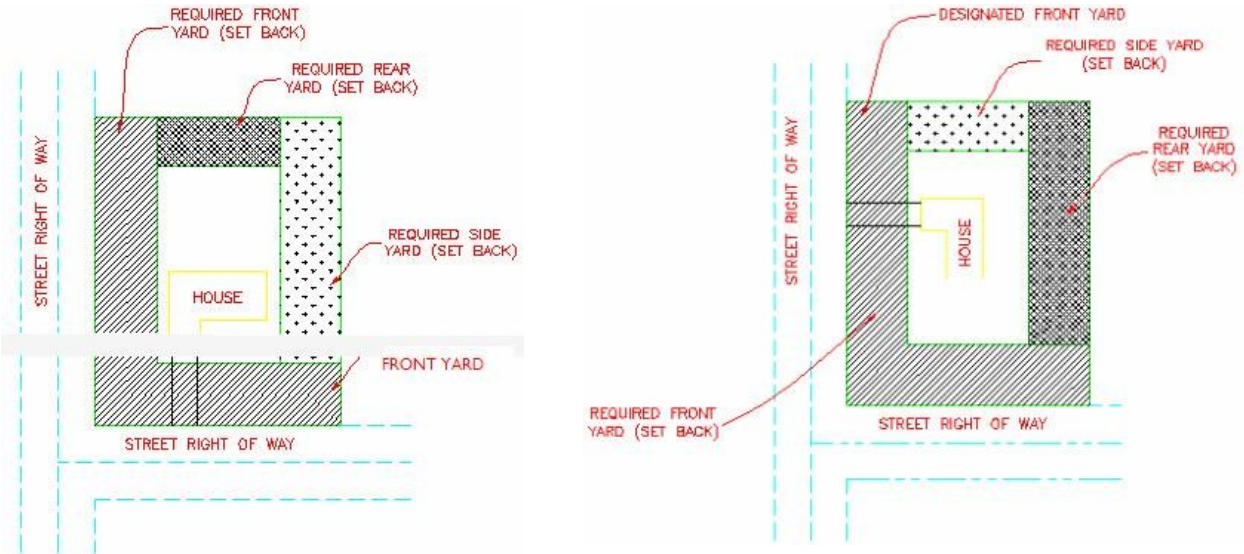
SECTION 11.11 CORNER LOTS

Lots or parcels which have frontage on two or more streets shall be subject to the following (refer to Figure 3):

- A. All yards having frontage on a street shall be considered front yards for the purposes of satisfying dimensional requirements.
- B. The mailing address of a property shall designate which yard shall be considered the front yard for the purposes of establishing the rear and side yards.

- C. Structures shall be set back the required front yard distance on both streets.
- D. No fence, wall, shrubbery, sign, or other visual obstruction above a height of thirty-six (36) inches is permitted within the triangular area formed by the intersection of any street right-of-way lines as measured by a straight line drawn between the right-of-way lines at a distance along each line of twenty-five (25) feet from their point of intersection.

Corner Lots Figure 3



SECTION 11.12 PRIVATE ROADS PROHIBITED

A roadway or driveway for more than two dwellings must be constructed as a public road.

SECTION 11.13 SUBDIVISIONS OF LAND

Beginning on the effective date of this Ordinance, all plats or proposed land divisions newly submitted to the Township Board pursuant to the Land Division Act, PA 591 of 1996 (formerly the Subdivision Control Act of 1967, PA 288) as amended shall be reviewed by the Township Assessor and Zoning Administrator. The Assessor and Zoning Administrator shall review all proposed divisions to determine whether those divisions are consistent with the requirements of this Ordinance and any other applicable law.

SECTION 11.14 GRADING

The finished surface of ground areas outside the walls of any building or structure hereafter erected, altered, or moved shall be designed so that surface water will flow away from the building walls in such a direction and with such a method of collection that inconvenience or damage to adjacent properties will not result.

SECTION 11.15 LIVING AREA

No area shall be considered a living area where more than four (4) feet of walls are below outside grade except that such finished area may be included if one wall is entirely above the grade line of the lot adjacent to the wall and that has an entrance to the out-of-doors through the wall, furnishing access to and from such finished quarters.

SECTION 11.16 LOCATION OF TRAVEL TRAILER, TRAILER COACHES, BOATS, UTILITY TRAILERS, AND OTHER VEHICLES

- A.** Prohibition on Outdoor Storage. No person shall be permitted to store any vehicle on any public property or right-of-way, or upon any private property not specifically zoned for that use, except as provided below:
- 1.** Any outdoor vehicle storage shall comply with applicable setbacks and be stored in an orderly and aesthetically pleasing fashion.
 - 2.** Except as provided in this Section, no vehicle may be stored outside a completely enclosed building.
 - a.** On any lot with an area of less than one (1) acre, up to three (3) operable vehicles may be stored in the front yard, but only within a dedicated and permanent driveway.
 - b.** No vehicle shall be stored within a required yard setback.
 - c.** Lots with an area of less than one (1) acre may store up to three (3) operable vehicles in rear yards. Lots with an area of more than one (1) acre shall be permitted to store an additional operable vehicle per acre, up to a maximum of six (6) vehicles.
 - 3.** It shall be unlawful to store any recreational vehicle, trailer, or boat on any lot that does not have an occupied dwelling, or upon a public or private road.
 - 4.** It shall be unlawful to store any inoperable, unlicensed, or uninsured vehicle outside of a completely enclosed building, except on lots specifically zoned for that purpose.

SECTION 11.17 REQUIRED LOT AREA OR SPACE

- A.** No lot being a part of a recorded plat and no parcel of un-platted land or site shall be so reduced that the yard, setback, open space, or area is less than the minimum requirements of this Ordinance.
- B.** In determining lot and yard requirements, no area shall be ascribed to more than one (1) main building or use, and no area necessary for compliance with the space requirements for one (1) principal building shall be included in the calculations of the space requirements for any other building or use.
- C.** All lots platted, subdivided, or otherwise created after the effective date of this Ordinance shall conform to the minimum lot size and lot width required for the district in which such lot shall be established.
- D.** Square footage and setbacks of all newly created lots will be measured excluding any public right of way.
- E.** If a lot of record abuts one or more lots of record in the same ownership, such lots shall be combined and considered as one lot for the purposes of this Ordinance. No portion of the combined lot shall be used or sold in a manner that diminishes compliance with lot area or lot width requirements of the district in which it is located, nor shall any division of the

combined lot be made that creates a lot with area or width less than the requirements of the district in which it is located.

SECTION 11.18 OUTSIDE STORAGE

No lot(s) shall be used for outside storage unless such storage has been authorized in connection with a special use permit or variance or is otherwise authorized by this Ordinance. No outdoor storage is authorized in any residential district. Any outdoor storage authorized by this Section shall be fenced to completely obscure such stored materials. Outside storage shall be subject to all use restrictions in the zoning district where the property is located. This provision does not apply to vehicles, which are regulated above.

SECTION 11.19 TEMPORARY DWELLINGS

The Zoning Administrator may grant a permit authorizing the use of a mobile home or recreational vehicle for a temporary dwelling under the following circumstances and upon compliance with the following standards:

- A. Single Family Home Under Construction by Owner. One (1) mobile home or recreational vehicle, housing only the owner(s) of a Parcel and their immediate family members, may be placed on any parcel as a temporary dwelling during the approved construction of a single-family dwelling if permitted through a temporary permit issued under this Section. The temporary permit shall be valid for up to one (1) year, and may be renewed not more than once for the same period by the Zoning Administrator.
- B. Repair of Damaged Conforming Single-Family Dwelling. One (1) mobile home or recreational vehicle may be placed temporarily on a parcel for use as a temporary dwelling during approved repairs of a single-family dwelling if permitted through a temporary permit issued under this Section. The mobile home or recreational vehicle may house only the owner(s) of the parcel and immediate family members during the repair of a single-family home. The temporary permit shall be valid for up to six (6) months and may be issued by the Zoning Administrator under emergency conditions. The permit may be renewed not more than once for the same period by the Building Inspector.
- C. Additional Requirements. All of the following requirements must be met before any temporary permit may be issued for placement and temporary occupancy of a mobile home or recreational vehicle:
 1. Utilities. The proposed water supply and sanitary facilities must be inspected and approved by the Central Michigan District Health Department.
 2. Building Permit. A building permit must have been issued to the parcel owner(s) for construction or repair of a single-family home on the parcel.
 3. Compliance with Regulations. Placement of the mobile home or recreational vehicle must comply with all setback and lot coverage requirements for the applicable zoning district.

4. Application Contents. All applications for temporary mobile home and recreational vehicle occupancy shall be made to the Zoning Administrator and shall contain:
 - a. The name of the owner of the mobile home or recreational vehicle.
 - b. The location of the proposed parking site as to street or road and house number, business address or by legal property description where no house number or business address is available.
 - c. The make, width and length of the mobile home or recreational vehicle and the vehicle license number, if any.
 - d. The date of the application.

SECTION 11.20 DEMOLITION

The demolition of any structure shall require an application for a land use permit. Demolition activities shall include removal of any elements of a structure's previous construction, including removal of any foundation or related substructure. Any party engaged in the demolition of a structure shall be responsible for restoring the property to as close to its natural state as is possible, including the restoration of natural grade, the removal of any and all building materials, junk, or scrap materials, and the planting of appropriate grasses or other vegetation. Demolition activities shall be completed no more than thirty (30) days from the date they are commenced, or within another period of time approved in writing by the Zoning Administrator.

SECTION 11.21 ANIMALS IN RESIDENTIAL DISTRICTS

The keeping, maintaining, caring for or raising of any wild animals is prohibited. Animals such as, but not limited to pigs, hogs, burros, sheep, cattle, goats, mules, llamas, chickens, rabbits, pigeons, ducks, geese, or turkeys are prohibited in residential districts. This prohibition shall not apply to farming activities in conformation with applicable Generally Accepted Agricultural and Management Practices to the extent protected by the Michigan Right to Farm Act, MCL 286.471 *et seq*

SECTION 11.22 EXTERIOR LIGHTING

All lighting for parking areas or for the external illumination of buildings and uses shall be directed away, and be shielded, from adjacent residential districts and shall also be arranged as to not adversely affect driver visibility on adjacent thoroughfares.

SECTION 11.23 PONDS

Ponds for non-agricultural uses that exceed one hundred (100) square feet of surface area shall be permitted following the issuance of a land use permit, subject to the following standards:

- A. The minimum setback distance for the outside edge of the pond shall be twenty-five (25) feet from any property line.

- B. There shall be a minimum of fifty (50) feet between the outside edge of the pond and any building or road right-of-way.
- C. There shall be a distance of not less than two hundred (200) feet from any overhead transmission lines.
- D. Slopes of the excavation shall not exceed a ratio of one (1) foot of vertical to four (4) feet of horizontal, to a depth below water of eight (8) feet.
- E. All areas disturbed during construction shall be seeded with grasses, rip-rap, stone, sand or other material and be maintained in good condition to prevent erosion.
- F. The Zoning Administrator may require the installation of a fence no less than four (4) feet in height to protect the health, safety, and welfare of neighboring residents or the community generally.
- G. The minimum depth must be fifteen (15) feet to insure proper aeration and circulation of the water.
- H. Evidence shall be presented at the time of application that the Gratiot County Drain Commissioner and Michigan Department of Environment, Great Lakes, and Energy have granted the necessary permits and/or approvals to the applicant for the construction of the pond or have released the applicant from any obligation thereto.

SECTION 11.24 PROJECTIONS INTO YARDS

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

SECTION 11.25 SCREENING AND GREENBELTS

A greenbelt is required to be planted along the right-of-way for all uses requiring site plan review and any single-family residential development where more than four (4) units are served by one (1) shared access road. If planting in the right-of-way is not permitted by the road agency having jurisdiction over the right-of-way, or to a utility company with facilities in the right-of-way, the greenbelt shall be planted within the required setback. The Planning Commission may require a greenbelt to be placed anywhere within the front yard, based on the specific characteristics of the lot. Required greenbelts shall meet the following standards:

- A. The greenbelt shall include only living materials and planting beds, except for approved sidewalks, signs, driveways and essential services.
- B. The greenbelt shall include one (1) deciduous canopy tree per thirty (30) linear feet of frontage, including any openings for driveways, sidewalks or easements.
- C. The Planning Commission may recommend substitution of evergreen trees for up to 50% of the required greenbelt trees upon determining that such substitution would be consistent with the existing character of the area.

- D.** Trees should be arranged to stimulate a natural setting such as massing or staggered rows, except where a more formal arrangement is determined to be more consistent with the existing character of the area.
- E.** Landscaping materials arrangement must ensure adequate site visibility for motorists, adequate clearance for pedestrians and vehicles, and accessibility to fire hydrants. Plant materials within twenty-five (25) feet of the right-of-way shall be not more than thirty-six (36) inches in height.
- F. Minimum Plant Material Planting Size.** Plant material must conform with the following standards at the time of planting:
1. Evergreen trees shall be a minimum of 5 feet in height.
 2. Narrow evergreens shall be a minimum of 3 feet in height.
 3. Ornamental trees shall be a minimum of 10 feet in height or 1 ¾” caliper.
 4. Large deciduous shrubs shall be a minimum of 4 feet in height.
 5. Deciduous canopy trees shall be a minimum of 15 feet in height or 2” caliper.
 6. Small evergreen or deciduous ornamental shrubs shall be a minimum of 18” to 24” spread.
- G. Plant Material Spacing.**
1. Plant materials shall not be placed closer than 20 feet from the fence line or property line.
 2. Where plant materials are placed in 2 or more rows, plantings shall be staggered in rows and/or grouped informally to create a naturalistic appearance.
 3. Evergreen trees shall be planted not more than 15 feet on center.
 4. Narrow evergreens shall be planted not more than 6 feet on center.
 5. Deciduous canopy trees shall be planted not more than 25 feet on center.
 6. Ornamental trees shall be planted not more than 10 feet on center.
 7. Large deciduous shrubs shall be planted not more than 4 feet on center.
- H.** The overall landscape plan shall demonstrate a variety of plant material with not more than 50% of any one species utilized throughout the design.
- I.** Suggested plant materials include the following:
1. Evergreen Trees.

- a. Juniper.
 - b. Hemlock.
 - c. Fir.
 - d. Pine (Dwarf, Globe and Pendulous species are not permitted).
 - e. Spruce.
 - f. Douglas-Fir.
2. Narrow Evergreens.
- a. Column Hinoki Cypress.
 - b. Blue Columnar Chinese Juniper.
 - c. Pyramidal Red-Cedar.
 - d. Swiss Stone Pine.
 - e. Pyramidal White Pine.
 - f. Irish Yew.
 - g. Douglas Arbor-Vitae.
 - h. Columnar Giant Arbor-Vitae
3. Ornamental Trees.
- a. Flowering crabs.
 - b. Service berry.
 - c. Dogwood.
 - d. Redbud.
 - e. Hornbeam.
 - f. Hawthorn.
 - g. Magnolia.
4. Large Deciduous Shrubs.
- a. Honeysuckle.

- b.** Viburnum.
- c.** Mock-Orange.
- d.** Forsythia.
- e.** Lilac.
- f.** Ninebark.
- g.** Cotoneaster.
- h.** Hazelnuts.
- i.** Euonymus.
- j.** Privet.
- k.** Buckthorn.
- l.** Sumac.

5. Deciduous Canopy Trees.

- a.** Oaks.
- b.** Hard Maples.
- c.** Hackberry.
- d.** Birch.
- e.** Beech.
- f.** Ginkgo (male species only).
- g.** Honeylocust (thornless and seedless cultivars only).
- h.** Hop Hornbeam.
- i.** Linden.

J. The following trees are not permitted:

- 1.** Box Elder.
- 2.** Soft Maples (Silver).
- 3.** Elms.

4. Poplars.
5. Willows.
6. Horse Chestnut (Nut Bearing).
7. Tree of Heaven.
8. Catalpa.
9. Dwarf, Globe and Pendulous species of Pine.

K. Existing Tree Preservation Incentives. The standards outlined below are intended to encourage the preservation of quality and mature trees by providing credits, at Planning Commission approval, toward the required trees for greenbelts, buffer zones and within parking lots.

1. All trees over eight (8) inches caliper shall be identified on the site plan with notations of trees to be preserved and trees to be removed.
2. Trees intended to be preserved shall be noted with a unique symbol on the site plan and be protected during construction through the use of construction fencing at or beyond the dripline of the tree or trees to be preserved.
3. Trees to be preserved shall be considered for credit only if they are located on the developed portion of the site as determined by the Planning Commission. The Planning Commission, as part of site plan approval, may allow credit for such plant material preservation if it will maintain and encourage the intent of the Ordinance. To obtain credit consideration the preserved trees shall be of a high quality and at least two (2) inches caliper.
4. Credit Consideration for preserved trees shall be:

| Preserved Tree Caliper*(inches) | Number of Trees to be Credited |
|---------------------------------|--------------------------------|
| 12 inches and over | 3 |
| 8 inches to 11.99 inches | 2 |
| 2 ½ inches to 7.99 | 1 |

*Caliper is the diameter of a tree trunk and shall be measured at a height 6 inches above the existing grade up to and including 4-inch caliper size and 12 inches above the existing grade for larger sizes.

5. To protect and encourage the continued health and vitality of the preserved trees, the ground within the dripline of the trees shall be maintained in the existing natural state. Storage of soils or other materials during or after construction within the tree dripline is prohibited.

6. If preserved trees die within three (3) years after construction, the property owner shall replace those trees with trees of the amount and type as would have been required if the tree had not been preserved. Said trees shall be replaced within sixty (60) days of written notice from the Township or within a greater period at the Township's discretion.
7. The minimum number of required trees shall not be reduced to less than fifty (50) percent through the use of approved tree credits.

L. Installation and Maintenance.

1. All plant materials shall be installed in a sound and workmanlike manner.
2. If building or paving construction is completed during a planting season, then no certificate occupancy will be issued unless the landscaping meets the requirements herein provided. If construction is completed in an off-planting season, the certificate of occupancy will be issued only after the owner provides a performance bond to ensure installation of required landscaping during the next planting season.
3. Tree stakes, guy wires and tree wrap are to be removed after one year following planting.
4. Required greenbelt areas and plant materials shall be kept free from refuse and debris. Plant materials shall be maintained in a health growing condition, neat and orderly in appearance. If any plant material required by this Ordinance dies or becomes diseased, it shall be replaced within thirty (30) days.

M. Compliance for Pre-Existing Sites. In any case where the building and/or parking area is being increased by at least 25% over the originally approved site plan or the use is being changed to a more intense use as determined by the Planning Commission, the site shall be brought into full compliance with the landscape standards of this Article. Increases to the building and/or parking areas of a lot are to be measured cumulatively against the original site plan.

SECTION 11.26 VOTING PLACES

Nothing in this Ordinance should be construed as interfering with the temporary use of any property serving as a voting place in connection with a public election, as provided by law.

SECTION 11.27 EXCEPTIONS TO HEIGHT LIMITATIONS

Unless specifically stated otherwise, the height limitations generally applicable to districts specified by this Ordinance do not apply to:

- A. Chimneys
- B. Church Spires
- C. Flag Poles
- D. Public Monuments
- E. Wireless Communications Towers

F. Wind Energy Conversion Systems.

This provision shall not be construed as preventing the Township from specifying a specific height limitation for any of these structures as a part of a special use permit, or specifically defining a height limitation applicable to these structures elsewhere in this Ordinance.

SECTION 11.28 OPEN SPACE PRESERVATION

Lot dimensions in the R-1 district may be reduced as follows within a residential development, provided that the number of lots created does not exceed the maximum number of lots that would be permitted if subdivided into lots satisfying the minimum square footage required by this Ordinance:

- A.** Density for dwelling units may not exceed one and two tenths (1.2) dwelling units per acre, or 0.8 per acre for areas not served by public utilities.
- B.** Lot widths shall be a minimum of eighty (80) feet.
- C.** The setbacks applicable to the R-1 District shall be maintained.
- D.** The minimum area of lots served by public sewer and water is 12,000 square feet.
- E.** All square footage gained through the reduction described by this Section is dedicated to the common use of lot owners within the residential development.
- F.** The area dedicated to common use must be at least three (3) acres, in a location and shape approved by the Township.
- G.** Access to common use areas must be provided to lots not boarding on those areas, through means such as streets or pedestrian access-ways.
- H.** Reductions in dimensional requirements under this Section shall be evaluated based on furtherance of the following objectives:
 - 1)** The creation of a more desirable living environment through the preservation of the natural character of open fields, stands of trees, brooks, hills, and similar natural assets.
 - 2)** The encouragement of developers to use a creative approach in the development of residential areas.
 - 3)** The encouragement of more efficient, aesthetic, and desirable use of open space while recognizing a reduction in the associated costs of development by allowing developers to bypass natural obstacles.
 - 4)** The preservation of open space within a reasonable distance of all lots developed within a residential development, and the promotion of corresponding recreational areas.

ARTICLE 12: PARKING

SECTION 12.1 INTENT AND PURPOSE

It is the purpose of these regulations to ensure that adequate parking facilities are provided for various uses and that they are adequately maintained. Off-street parking as required by this Ordinance shall be in accordance with the following provisions.

SECTION 12.2 OFF-STREET PARKING REQUIRED

For all uses, adequate off-street parking shall be required to prevent conflicts with vehicular traffic. Adequate off-street parking shall be provided for each use. Off-street parking areas shall be designed with enough capacity to provide safe and sufficient parking for all vehicles during normal times of use. Direct access to off-street parking areas shall be provided from a public road or approved drive. Parking within street rights-of-way shall not be construed as satisfying the requirements of this Ordinance except as allowed by specific districts and uses in this Ordinance.

SECTION 12.3 DEVELOPMENT STANDARDS

- A. State and federal handicapped parking requirements shall be followed.
- B. Striping and lighting may be required.
- C. Parking lot design and construction shall be subject to site plan review.

SECTION 12.4 OFF-STREET PARKING REQUIREMENTS

- A. The following uses shall provide approved surface parking areas in accordance with the following minimum standards.
- B. Total parking required is the sum of spaces for all land uses proposed on the site plus employee parking, as defined below.

Table of Off-Street Parking Requirements

| Land Use | Number of Spaces | Per Activity Unit |
|--------------------------------------|-------------------------|---|
| Single, two or multi-family dwelling | 2 | Dwelling unit |
| Senior citizen housing | 1 | 2 dwelling units |
| Mobile home park | 2 | Mobile home site |
| Church, theater, stadium, arena | 1 | 3 seats or 6 feet of pews/bench seating |
| Hospital | 1.5 | Bed |
| Convalescent home | 1 | 2 beds |
| Grade school | 1 | 10 students |

| | | |
|---|---|--|
| High school | 1 | 5 students |
| Private club | 1 | 2 member-families |
| Golf course | 6 | Hole |
| Day care | 1 | 150 square feet of usable floor area |
| Shopping center | 1 | 100 square feet of usable floor area |
| Automobile wash facility | 5 | Wash bay |
| Beauty parlor or barber shop | 2 | Chair |
| Bowling alley | 5 | Lane |
| Meeting hall, skating rink, community center, gymnasium, auditorium | 1 | 3 persons allowed in building based on fire code |
| Bar or restaurant | 1 | 100 square feet of usable floor area |
| Automobile service station | 2 | Stall |
| Gas station | 1 | Gasoline pump |
| Laundromats | 1 | 2 machines |
| Mini golf course | 3 | Hole |
| Mortuary establishments | 1 | 50 square feet of assembly room, parlor area and slumber rooms |
| Hotel or motel | 1 | Occupancy unit |
| Vehicle sales | 1 | 200 square feet of usable floor area of sales room |
| Retail stores | 1 | 150 square feet of usable floor area |
| Banks | 1 | 100 square feet of usable floor area, plus 6 stacking spaces per drive thru window |
| Doctor, dentist, veterinarian | 2 | Examination or treatment room |
| Business offices | 1 | 100 square feet of usable floor area |
| Industrial or research establishments | 1 | 550 square feet of usable floor area |
| Warehouse, wholesale | 1 | 1,700 square feet of usable floor area |
| Any employment site | 1 | Employee at peak shift |

C. In addition to the above, all non-residential uses shall also provide 1 parking space per employee.

- D.** Where an applicant can substantiate a different parking need than those indicated above, upon submittal of convincing written evidence to the Planning Commission, a deviation may be allowed.
- E.** Temporary use of unpaved area for parking associated with special or non-routine events may be authorized through the issuance of a temporary parking permit by the Zoning Administrator.
- F.** The parking requirements for a use not listed above shall be determined by the Zoning Board of Appeals. The Zoning Board of Appeals' determination shall be based on a comparison of the proposed use and a similar use that is listed in the Table of Off-Street Parking Requirements, or, in the event there is no sufficiently similar use, pursuant to a traffic study provided by the applicant.
- G.** Additional parking consistent with the requirements of this section shall be provided in the event of an increase in floor area, a change from a less-intensive land use to a more-intensive land use as determined by the Planning Commission, an addition, or the expansion of a building or site.
- H.** The use and construction of shared parking is encouraged and allowed when it can be demonstrated that the parking requirements of this Article can be met. Joint parking which provides the number of parking spaces required for both uses individually shall be presumed to satisfy the requirements of this Article. A lesser number of spaces may be approved by the Planning Commission if an applicant can demonstrate that both uses will have adequate parking for reasons such as disparate operating hours or peak periods.
- I.** Off-street parking may be located within any non-required yard and within the rear yard setback unless otherwise provided in this Ordinance. Off-street parking shall not be permitted in a required front or side yard setback unless otherwise provided in this Ordinance.
- J.** Off-street parking for all nonresidential uses shall be either on the same lot or within three hundred (300) feet of the building it is intended to serve, measured from the nearest point of the building to the nearest point of the off-street parking lot.
- K.** Residential off-street parking spaces shall consist of a parking strip, parking bay, driveway, private garage or a combination thereof and shall be located on the premises they are intended to serve. Any detached private garage or carport must meet the standards for accessory structures.
- L.** The storage of merchandise, motor vehicles for sale, trucks, or the repair of vehicles in required off-street parking is prohibited.
- M.** If this Article would result in the requirement of a fractional space, an additional space will be required.

SECTION 12.5 OFF-STREET PARKING AREA CONSTRUCTION REQUIREMENTS

- A. Off-street parking areas shall be surfaced with a material that provides a durable, smooth and dustless surface (asphalt, concrete, pavers, etc.) which shall be graded to drain and dispose of storm water.
- B. Storm water collection, drainage and retention structures meeting all requirements of the Gratiot County Road Commission and the Gratiot County Drain Commissioner shall be installed for all off-street parking areas.
- C. All parking spaces and drive aisles shall meet the following minimum dimensional requirements:

Table of Dimensional Requirements for Parking Lots

| Parking Pattern | Drive Aisle Width (Feet) | Parking Space Width (Feet) | Parking Space Length (Feet) | Total Width of One Tier of Space and Drive Aisle (Feet) | Total Width of Two Tiers of Spaces and Drive Aisle (Feet) |
|------------------------|---------------------------------|-----------------------------------|------------------------------------|--|--|
| 0° (Parallel) | 12 | 8 | 23 | 20 | 28 |
| 30° to 53° | 12 | 8.5 | 20 | 32 | 52 |
| 54° to 74° | 15 | 8.5 | 20 | 36.5 | 58 |
| 75° to 90° | 20 | 9 | 20 | 40 | 60 |

- 1. All spaces shall be provided adequate access by means of drive aisles. Backing directly onto a street shall be prohibited.
 - 2. All drive aisle widths shall permit one-way traffic movement, except that the ninety (90) degree pattern may permit two-way movement.
- D. Driveways for any off-street parking area shall be clearly defined meeting the following requirements:
- 1. Each driveway lane shall be a minimum of twelve (12) feet and a maximum of twenty (20) feet in width per direction. Lanes for entering and exiting traffic shall be defined.
 - 2. A driveway shall intersect the abutting street at a ninety-degree angle.
 - 3. Driveways to off-street parking shall not be located in the R-1 District and shall maintain a setback of at least twenty-five (25) feet from any adjacent property zoned R-1.
 - 4. Driveways shall be setback at least twenty-five (25) feet from any intersection.
 - 5. Each parcel shall have no more than one driveway entrance and exit opening to an abutting public thoroughfare for each four hundred and fifty (450) feet of frontage, or fraction thereof.

- 6. If a driveway cannot fulfill these requirements because of an existing driveway on another parcel, the new driveway will be located to maximize compliance with these standards.
- E. All lighting of a required off-street parking area shall be arranged in such a manner and shall be of such height that the illumination is shielded and directed toward the ground and is not directed toward a public thoroughfare or adjacent properties.
- F. Parking and loading areas in general shall be located beside or behind structures, but in no case closer than fifty (50) feet to any road right-of-way.
- G. Any off-street parking area shall have a wall not less than four and a half (4.5) feet high between the parking area and adjacent property zoned for residential uses.
- H. A land use permit shall be required for construction of any parking area.

SECTION 12.6 LANDSCAPING REQUIREMENTS FOR OFF-STREET PARKING AREAS

- A. Off-street parking areas shall meet the following requirements for parking lot trees and parking lot islands:

Table Showing Parking Lot Tree and Parking Lot Island Requirements

| Zoning District | 1-100 Parking Spaces | 101-200 Parking Spaces | Over 200 Parking Spaces |
|------------------------|-----------------------------|-------------------------------|--------------------------------|
| Business | 1 canopy tree per 10 spaces | 1 canopy tree per 10 spaces | 1 canopy tree per 12 spaces |
| Industrial | 1 canopy tree per 12 spaces | 1 canopy tree per 15 spaces | 1 canopy tree per 15 spaces |

- B. All of the required parking lot trees shall be placed within the off-street parking area or within fifty (15) feet of the outside edge of the off-street parking area. A minimum of one-third of all required trees shall be placed within the interior of the off-street parking area.
- C. Each tree shall be surrounded by an area of grass or living ground cover at least one hundred and fifty (150) square feet in size to provide for adequate resources of air and water. Tree plantings shall be protected from automobiles with curbing or another suitable device.
- D. All parking lot islands shall be curbed. Islands shall be at least one hundred and fifty (150) feet in area. Each island shall be at least ten (10) feet wide, with a depth of two (2) feet shorter than the depth of the adjacent parking space. Islands shall have a minimum of ten (10) feet at the ends facing main aisles. A minimum radius shall be one (1) foot where island is not adjacent to a main traffic aisle.
- E. Required parking lot trees shall not be credited towards greenbelt or screening requirements.

SECTION 12.7 OFF-STREET LOADING AND UNLOADING

On the same premises with every structure involving the receipt or distribution of vehicles or materials with merchandise, there shall be loading and unloading spaces in order to prevent undue interference with the right-of way. Such spaces shall be provided as follows:

- A. Except in the Industrial District, no loading and unloading space shall be located in a required rear yard.
- B. All spaces will be laid out in the dimension of at least ten (10) by fifty (50) feet, or five hundred (500) square feet in area, with clearance of at least fourteen (14) feet in height.
- C. Loading docks approaches shall be provided with a pavement having an asphaltic or Portland cement binder so as to provide a permanent, durable and dustless surface. All spaces in the Industrial District shall be provided as follows:

Table of Loading and Unloading Space Requirements

| Gross Floor Area (Square Feet) | Loading and Unloading Space Required |
|---------------------------------------|--|
| 0 – 1,400 | None |
| 1,401 – 20,000 | 1 space |
| 20,001 – 100,000 | 1 space, plus 1 additional space for each 20,000 square feet in excess of 20,001 square feet |
| 100,000 and over | 5 spaces |

ARTICLE 13: SIGNS

SECTION 13.1 PURPOSE AND INTENT

The purpose of this Article is to make Bethany Township attractive to residents, visitors, and commercial, industrial and professional businesses while maintaining a sustainable economy through an appropriate signage program. The elements of this program will:

- A.** Protect the general public health, safety and welfare of the community and enhance its economy and its businesses through the regulation of sign sizes, numbers, locations, design, and illumination.
- B.** Reduce possible traffic and safety hazards.
- C.** Direct persons to various activities and uses, in order to provide for maximum public convenience.
- D.** Encourage a desirable community character with a minimum of clutter.
- E.** Provide a reasonable system of sign regulations to ensure the development of a high-quality aesthetic environment by encouraging signs which are well designed and pleasing in appearance and providing latitude for variety and good design in relation to the business or use it serves.

SECTION 13.2 PERMIT REQUIREMENTS AND REVIEW PROCEDURES

An application for a sign permit shall be made on forms provided by the Township Zoning Administrator and shall be accompanied by any fees as required by the Township. Fees for sign permits shall be set by resolution by the Township Board. Failure to obtain a sign permit shall be a violation of this Ordinance.

SECTION 13.3 ADMINISTRATION

- A.** A permit shall be issued or denied within thirty (30) days of the submission of a complete application and the required fees to the Zoning Administrator.
- B.** If a permit is issued on the basis of misstatement of material fact or fraud, the Zoning Administrator shall, in writing, suspend or revoke the permit with the reasons for denial.
- C.** When the Zoning Administrator denies a sign permit, such denial shall be in writing, with the reasons for denial.
- D.** The sign permit becomes null and void if installation does not commence within one hundred and eighty (180) days of permit date. If work is suspended or abandoned for ninety (90) days, a new permit and application fee shall be required.
- E.** Signs that are illegally posted within public rights of way or on publicly owned property may be removed by, or at the direction of, the Zoning Administrator. Any signs removed will be held in the Bethany Township Hall for thirty (30) days before being destroyed and can be recovered by the owner upon payment of a ten-dollar (\$10.00) recovery fee per sign.

Bethany Township and the individual or entity removing such signs shall not be held responsible for any damage done to such signs.

- F. At the discretion of the Zoning Administrator, any sign request may be referred to the Planning Commission for its review and recommendation, with a final determination to be made by the Township Board.
- G. The Zoning Administrator's or Township Board's decision may be appealed to the Zoning Board of Appeals. Such appeal shall be made on the forms provided by the Township and fees paid in accordance with the Township fee schedule. The submission of the completed application and fees shall constitute the filing of the appeal.
- H. Notwithstanding anything in this Ordinance to the contrary, no sign or sign structure shall be subject to any limitation based upon the viewpoint of the message contained on such sign or displayed on such sign structure.
- I. Signs required by law, or related to the performance of a public function and placed by a government entity, are not subject to the restrictions of this Article.

SECTION 13.4 PERMITTED SIGNS BY DISTRICT

The following signs are permitted by zoning district, upon securing a sign permit from the Zoning Administrator.

A. Residential Districts:

- 1. For dwelling units, one (1) non-illuminated wall sign not exceeding six (6) square feet in area.
- 2. For structures other than dwelling units, one (1) non-illuminated wall sign not to exceed six (6) square feet in area.
- 3. For multi-family dwellings or neighborhoods, one externally-illuminated freestanding identification sign not exceeding twenty-four (24) square feet in area shall be permitted at each point of ingress and egress, provided that the same is setback at least one hundred (100) feet from any residence.

B. Commercial and Agricultural Districts:

- 1. One wall sign of any size.
- 2. One freestanding sign not to exceed thirty-two (32) square feet in area is permitted in the required front yard, provided that the same is setback one hundred (100) feet from any residential use.
- 3. External or internal illumination is permitted, provided that the glare is shielded from any nearby residential use or roadway.

4. For businesses with frontage on two (2) or more public roads, one (1) additional wall sign and one (1) additional freestanding sign will be permitted for each public road, so long as there are no more than one (1) wall sign or freestanding sign per public road.
5. For all uses and structures, one (1) flag not to exceed twenty-four (24) square feet in area may be displayed from a flag bracket or flag stanchion. Up to two (2) additional flags not exceeding twenty-four (24) square feet in area each may be displayed from a flagpole located on the parcel, provided that the flagpole does not exceed fifty (50) feet in height.

C. Industrial District:

1. One wall sign of any size.
2. One freestanding identification sign not to exceed thirty-two (32) square feet in area is permitted in the required front yard, provided that the same is setback two hundred (200) feet from any residential use.
3. One sign located on the roof of the principal structure not to exceed sixty (60) square feet in area.
4. External or internal illumination is permitted, provided that the glare is shielded from any nearby residential use or roadway.
5. For businesses with frontage on two (2) or more public roads, one (1) additional wall sign and one (1) additional freestanding sign will be permitted for each public road, so long as there are no more than one (1) wall sign or freestanding sign per public road.
6. For all uses and structures, one (1) flag not to exceed twenty-four (24) square feet in area may be displayed from a flag bracket or flag stanchion. Up to two (2) additional flags not exceeding twenty-four (24) square feet in area each may be displayed from a flagpole located on the parcel, provided that the flagpole does not exceed fifty (50) feet in height.

D. Planned Unit Development:

1. For a single development, one (1) freestanding sign not to exceed fifty (50) square feet in area shall be permitted at each point of ingress and egress, for up to two (2) signs per development. Any such sign shall be setback at least fifty (50) feet from the interior boundary of the development.
2. For any structure, one (1) wall sign not exceeding twenty (20) square feet.
3. No roof signs, flags, or internally illuminated signs shall be permitted.
4. Any sign within a Planned Unit Development should be aesthetically harmonious with the character of other signs, buildings and landscaping within the development.

5. Additional signs may be authorized at the Township's discretion, if properly identified as part of conceptual site plan review and otherwise consistent with the development as a whole.

E. All Districts

1. One wall sign of not more than thirty-two (32) square feet is permitted in a business center for each individual business.
2. Each business occupancy other than the ground floor shall be entitled to one additional sign of the wall or flat type on the structure or incorporated within a permitted projecting sign. These wall signs shall not be larger than two-thirds (66%) of the permitted wall sign for the first floor business.
3. Parcels with greater than four hundred (400) lineal feet of frontage may be granted additional signage pursuant to a submitted and approved site plan.
4. Any electronic message board change cycle shall be not less than ten (10) seconds per message, symbol, or picture.

SECTION 13.5 BILLBOARDS

Billboards shall be permitted in the Business and Industrial Districts when located along State Highway M-46, provided the following requirements are met:

- A. The billboard is set back at least one thousand and five hundred (1,500) feet from any other billboard abutting either side of the same highway.
- B. Not more than three (3) billboards may be located per linear mile of highway, regardless of the fact that such billboards may be located on different sides of the highway.
- C. The billboard does not exceed a height of thirty (30) feet, measured from grade.
- D. The billboard does not exceed an area of three hundred (300) square feet per sign face.
- E. The billboard does not have more than two (2) sign faces.
- F. The billboard is setback at least three hundred (300) feet from any residential zoning district, existing residence, church or school. If the billboard is illuminated, this required distance shall be five hundred (500) feet.
- G. The billboard is setback at least seventy-five (75) feet from a property line adjoining a public right of way or ten (10) feet from any interior boundary lines of the premises on which the billboard is located.
- H. The billboard may be illuminated, provided that such illumination is concentrated on the surface of the sign and is located so as to avoid glare or reflection onto any portion of an adjacent street or highway, the path of oncoming vehicles or any adjacent premises. In no

event shall any billboard have flashing or intermittent lights, nor shall the lights be permitted to rotate or oscillate.

- I. No billboard shall be on top of, cantilevered or otherwise suspended above the roof of any building.
- J. The billboard must be constructed in such a fashion that it will withstand all wind and vibration forces that can normally be expected to occur in the vicinity. The billboard must be maintained so as to assure proper alignment of the structure, continued structural soundness and continued readability of the message.

SECTION 13.6 EXEMPT SIGNS; PROHIBITED SIGNS; CONSTRUCTION AND MAINTENANCE

- A. Exempt signs. A sign permit is required for any erection, construction, enlargement, or movement of any sign in Bethany Township, except for those signs described below:
 - 1. Temporary signage painted on the window or constructed of paper, cloth, or similar expendable material affixed on the window, wall, or building surface, provided that all of the following are met:
 - a. The total area of such signs shall not exceed the greater of 25% of the window area or twelve (12) square feet per business frontage is permitted.
 - b. Such signs shall be affixed to the surface for no more than fourteen (14) continuous calendar days but for no more than thirty (30) days each calendar year.
 - 2. Other temporary signage, not exceeding four (4) square feet in area or five (5) feet in height, provided that it is unlit and is removed within thirty (30) days of installation, unless a longer period is permitted by law.
 - 3. Any sign authorized by law, or by regulation or administrative rule of a governmental entity, having appropriate jurisdiction.
 - 4. House numbers, addresses, name plates, memorial signs, erection dates and building names when cut into, inlaid or mounted against a building surface.
 - 5. Traffic control devices.
 - 6. Any sign, other than a window sign, located entirely inside the premises of a building or an enclosed space.
 - 7. For all uses and structures, one (1) flag not to exceed twenty-four (24) square feet in area may be displayed from a flag bracket or flag stanchion. Up to two (2) additional flags not exceeding twenty-four (24) square feet in area each may be displayed from a flagpole located on the parcel, provided that the flagpole does not exceed fifty (50) feet in height.

B. Prohibited signs. All signs not expressly permitted are prohibited in all zones, including but not limited to the following:

1. Revolving or rotating signs.
2. Signs within the public right-of-way (except those required by a governmental agency). No sign shall be so placed, erected or constructed on a utility pole, traffic device, traffic sign, or warning sign or so as to impede access to any public improvement, or to obstruct the vision of any such signs, except as expressly permitted by this Article.
3. Signs located on public property except as expressly permitted by this Article.
4. Signs blocking doors or fire escapes.
5. Wall signs that project beyond or overhang the wall upon which they are mounted.
6. Roof signs that project above or beyond the highest point of the roof.
7. Any sign that by reason of size, location, movement, content, coloring or illumination would be confused with a traffic control sign, signal or device or lights of emergency and road control vehicles.
8. Signs containing statements or pictures of an obscene or pornographic nature.
9. Signs that emit or project audible sound or visible matter.
10. Animated signs.
11. Signs displayed without the consent of the legal owner of the property on which the sign is mounted or displayed.

C. Construction and maintenance

1. Every sign and all parts, portions, and materials shall be manufactured, assembled, and erected in compliance with all applicable state, federal, and Township regulations.
2. Every sign and all parts, portions, and materials shall be maintained and kept in proper repair. The display surface of all signs shall be kept clean, neatly painted and free from rust and corrosion. Any cracked or broken surfaces and malfunctioning or damaged portions of a sign shall be repaired or replaced within thirty (30) calendar days following notification by the Zoning Administrator. Any maintenance which does not involve a structural change is permitted.
3. All sign installers shall comply with any necessary licenses, certifications and all applicable codes, laws and ordinances.
4. No sign shall be erected, constructed or altered until a sign permit has been issued by the Zoning Administrator, unless otherwise exempted from permitting requirements by this Ordinance.

SECTION 13.7 DESIGN STANDARDS

Each sign shall be designed to complement the buildings and the surroundings of its intended location. To the extent possible, a sign located on a commercial site in a predominantly residential area shall take into consideration compatibility with the residential area.

- A.** Landscaping. Each freestanding sign shall be located, wherever possible, in a planted landscaped area which is of a shape, design and size that will provide a compatible setting and ground definition to the sign. The planted landscaped area shall be maintained in a neat, healthy, and thriving condition. Plantings must be no higher than three (3) feet.
- B.** Illumination and motion. Signs shall be nonmoving, stationary structures (in all components), and illumination, if any, shall be maintained by an artificial light source that is stationary and constant in intensity and color at all times (non-flashing), which shall not exceed three thousand (3000) lumens.
- C.** Relationship to streets. Signs shall be designed so as not to obstruct any pedestrian, bicyclist, or driver's view of right-of-way. Signs shall comply with a ten (10) foot setback from any right of way, or with a greater setback if such is deemed necessary for the safety or convenience of motorist, pedestrians, or neighboring properties.
- D.** Nuisance. Notwithstanding any other provision of this Article, no sign shall be installed, maintained, or operated in manner that creates a nuisance.

SECTION 13.8 NONCONFORMING SIGNS

- A.** It is the intent of this Section to recognize that the eventual elimination of existing signs that are not in conformity with the provisions of this Article is as important as the prohibition of new signs that would violate these regulations.
- B.** General requirements.
 - 1.** A nonconforming sign may not be:
 - a.** Changed to another nonconforming sign.
 - b.** Structurally altered to extend its useful life, except for ordinary maintenance.
 - c.** Expanded, moved or relocated.
 - d.** Reestablished after damage or destruction of more than 50% of the sign's state equalized value.
 - e.** In poor repair.
- C.** Signs which have historical significance to the community but do not conform to the provisions of this Article may be issued a permit to remain, provided that the Planning Commission makes the following findings:
 - 1.** The sign has a bona fide historical significance for the community;

2. The sign does not constitute a traffic hazard;
 3. The sign does not diminish the character of the community;
 4. The sign is properly maintained and structurally sound; and
 5. The sign does not adversely affect adjacent properties.
- D.** Any sign that is associated with a business that has not been operational for a period of six (6) months shall be deemed to be abandoned. All such signs shall be removed by the current property owner, and no land use, construction, or restoration of an existing use may occur unless the sign is removed, replaced, or brought up-to-date with the standards of this Section.

ARTICLE 14: SITE PLAN REVIEW

SECTION 14.1 INTENT AND PURPOSE

Land development affects the character of the community and its public health, safety, and general welfare. This Article describes all land uses subject to site plan review, as well as the standards and procedures associated with that review.

SECTION 14.2 SCOPE

Site plan review by the Planning Commission is required for all uses other than single-family or two-family dwellings in residential districts. The Planning Commission shall conduct site plan review for the following uses:

- A.** All land developments, excluding single-family or two-family dwellings located on a single lot in a residential district and agricultural uses not subject to a special use permit, including structures to be erected, moved, externally altered, added to, or to have any change in use which would affect their approved off-street parking, landscaping, site drainage, or any other requirements.
- B.** Planned Unit Developments.
- C.** Special uses in all Districts.
- D.** Subdivision of land and condominiums in all Districts.

Site plans not required to be reviewed by the Planning Commission shall be reviewed by the Zoning Administrator. The Zoning Administrator shall review such plans in accordance with the same procedures, requirements, and standards used by the Planning Commission.

No person shall undertake any activity or use, including any grading, clearing, cutting and filling, excavating, or tree removal associated therewith, nor shall a building or land use permit be issued for which site plan approval is required by this Ordinance, without first obtaining such approval, nor shall such activity proceed prior to obtaining necessary soil erosion and sedimentation control permits, wetlands permits, or floodplain permits.

SECTION 14.3 APPLICATION AND FEE

- A.** An application for site plan review shall be made by filing the Township-supplied application form, the required information, and the required fee with the Township Zoning Administrator.
- B.** The application fee shall be set by resolution of the Township Board. Once accepted by the Zoning Administrator, no portion of the fee shall be returned to the applicant, unless authorized by the Township Board.

SECTION 14.4 REVIEWING AUTHORITY

The Planning Commission, or its qualified designee, shall review site plan applications in accordance with the standards presented in this Article and this Ordinance. The Planning Commission shall review the site plan application and/or its designee's report and shall thereafter approve, approve with conditions, or deny the request for site plan approval. The Planning

Commission may hire qualified professional(s) at the applicant's expense to aid in its review of a site plan.

SECTION 14.5 MAJOR AND MINOR DEVELOPMENT PROJECTS

- A.** A minor project, for the purposes of this Article, is defined as follows:
 - 1. The remodeling, alterations, or additions to commercial and industrial buildings of less than 25% of the square footage of the existing structure.
 - 2. Improvements to, erection of, or reconstruction of accessory buildings and structures, parking areas, and similar facilities.
 - 3. A change from one permitted use to another.
 - 4. Site changes that do not exceed 25% of the existing developed site area.
- B.** Major projects are all projects not listed above, including, without limitation, site condominium projects, multi-family dwellings, commercial and industrial buildings and additions, and alterations or redevelopment of buildings and sites greater than listed above.

SECTION 14.6 CONCEPTUAL SITE PLAN REVIEW

The applicant is encouraged to submit a conceptual plan for review by the Planning Commission to ensure that that errors, miscalculations or misconceptions are not incorporated into preliminary plans. This procedure is intended to be informational only and shall not necessarily bear directly upon later reviews.

SECTION 14.7 SITE PLAN REVIEW; REQUIRED INFORMATION

For major projects, site plan review shall entail the examination of all the items in Subsection C of this Section. For minor projects, the abbreviated review indicated in Subsection B is allowed.

- A.** Required submittals, minor projects. All project applicants shall submit to the Zoning Administrator the site plan application provided by the Township and twelve (12) copies of a detailed site plan. The Zoning Administrator shall then have the authority to either approve the project or require the applicant to submit the application to the Planning Commission for further review.
- B.** The detailed site plan shall consist of the following items for review:
 - 1. A site plan, drawn to scale, with a North arrow, showing the property boundaries, the proposed location of structures and other improvements, including, where appropriate, roads, driveways, pedestrian walks, off-street parking areas, landscaped areas, fences and walls.
 - 2. A conceptual landscape plan, including required greenbelts, existing vegetation, watercourses, and other significant site features, and proposed new plantings.
 - 3. Accurate scale drawings of all signs indicating their size, material, color and illumination, if any, and the method of installation of any freestanding sign.

4. Conceptual grading and drainage plans with existing and proposed elevations.
5. Such other data as may be required by the Planning Commission to ensure that the purposes of this Article are satisfied.
6. The Planning Commission may waive a requirement or requirements listed above if not deemed necessary for a thorough review.

C. Required submittals, major project.

1. The following are among the items to be included on the detailed plan for major projects. Site plans should be accurately drawn at the scale of at least one (1) inch equals fifty (50) feet showing the site and all land and structures within five hundred (500) feet of the site. The Planning Commission may require details to be provided in a scale as little as one (1) inch equals twenty (20) feet. If multiple sheets are used, each must be labeled and dated, and the preparer identified. For lots with area greater than three (3) acres, a scale of one (1) inch equals one hundred (100) feet is acceptable.
2. All information required for a minor project, except as modified by this Subsection.
3. The location of proposed or existing property lines, dimensions, legal descriptions, tax parcel numbers, setback lines, and monument locations.
4. A vicinity map drawn at a scale of a minimum of one (1) inch equals two thousand (2,000) feet with a North arrow indicated.
5. Existing topographic elevations at two-foot intervals, proposed grades and directions of drainage flows.
6. The location and type of existing soils on the site and any certifications of borings.
7. Boundaries and elevations of existing and proposed watercourses and water bodies, including county drains and man-made surface drainage ways, floodplains and wetlands within five hundred (500) feet of the project site and proposed erosion control measures.
8. Location, screening, dimensions and heights of existing and proposed buildings, including accessory buildings and uses, and the intended or actual uses thereof. Rooftop or outdoor appurtenances should also be indicated, including proposed or existing methods of screening such equipment, where appropriate.
9. Location of abutting streets and proposed alignment of streets, drives and easements serving the development, including existing right-of-way and pavement widths.
10. Location of and dimensions of proposed streets, drives, curb cuts, and access easements, as well as acceleration, deceleration and passing lanes or tapers (if any) serving the development. Details of entryways and entryway sign locations should be separately depicted with elevation views.

11. Location, design, and dimensions of existing and proposed curbing, barrier-free access, garages, parking areas (including indication of all spaces, method of surfacing and striping), fire lanes and all lighting and signing thereof.
12. Location, size and characteristics of all loading and unloading areas.
13. Location and design of all trails, walkways, bicycle paths, and other areas for public use.
14. Location of water supply lines and/or wells, including fire hydrants and shutoff valves, and the location and design of storm sewers, retention or detention areas, wastewater lines, cleanout locations, connection points and treatment systems, including septic systems, if applicable.
15. Location and routing of all other utilities on the site, including but not limited to natural gas, electric, and data and telecommunication transmissions.
16. Proposed location, dimensions, and details of common open spaces and common facilities, such as community buildings or swimming pools, if applicable.
17. Exterior lighting locations with areas of illumination illustrated, as well as the type of fixtures and shielding to be used.
18. Location and specifications for all fences, walls, and other screening features with cross sections.
19. General location and type of significant existing vegetation, including the location and size of all existing trees with a trunk of six (6) inches or more in diameter, four and a half (4 ½) feet above the ground, if not located in a forest. Forests or large vegetation areas to be preserved shall be demarcated and designated as such.
20. Locations and specifications for all proposed perimeter and internal landscaping and other buffering and greenbelt features.
21. Location, size and specifications for screening of all trash receptacles and other solid waste disposal facilities.
22. Location and specifications for any existing, proposed, or required above- or below-ground storage facilities for any chemicals, salts, or flammable or hazardous materials, as well as any containment structures or clear zones required by government regulations and a pollution incident prevention plan as required by the Michigan Natural Resources and Environmental Protection Act, MCL 324.3101 *et seq.*
23. Location of any areas which are known or suspected to be contaminated, together with the status of any site cleanup.
24. Identification of any significant or unique site features.
25. Indication of any significant views onto or from the site.
26. The zoning classifications of the site and adjacent properties.

27. North arrow, scale and date of original submittal and all revisions and the preparer's name, qualifications, e.g., PE, PS, RS, AICP, etc., and stamps where appropriate.
 28. Proposed landscaping, including quantity, size at planting and botanical and common names of plant materials.
 29. Proposed grades and site drainage patterns, including necessary drainage structures. Where applicable, indicate the location and elevation(s) of one hundred (100) year flood plain.
 30. Signs, including location, height, and sizes.
 31. Development plans for residential projects shall include the following additional information:
 - a. Minimum floor area of the dwelling units.
 - b. Total number of units proposed.
 - c. Number of bedrooms per unit in multiple family developments.
 - d. Areas to be used for open space and recreation.
 - e. Space allowance for accessory buildings.
 32. The name, signature, seal, and address of the architect, planner, designer, or engineer responsible for preparation of the site plan.
 33. Such other data as may be required by the Planning Commission to ensure that the purposes of this Article are satisfied.
- D.** The Planning Commission may waive a requirement or requirements listed above if not deemed necessary for a thorough review.

SECTION 14.8 SITE PLAN REVIEW PROCEDURE

- A.** When all necessary information as provided by this Article is submitted to the Zoning Administrator, the Zoning Administrator shall notify the Planning Commission Chairman.
- B.** The Chairman shall place the site plan review on the next available meeting agenda for discussion by the Commission and shall notify the applicant of this action.
- C.** Within a reasonable time and based upon the standards of this Article, the Planning Commission shall act to either approve, conditionally approve, or to deny the request for site plan approval, or to provide information to the applicant by which he may amend his plans to conform to certain stipulated requirements to obtain approval.
- D.** If plans are denied at any time, the Planning Commission shall submit in writing to the applicant the reasons for the action.

SECTION 14.9 REVIEW STANDARDS

The following standards shall be utilized in reviewing all site plans. The standards are intended to provide guidance for the applicant in the production of plans as well as a method for the review of site plans by Township officials.

- A.** Adequate ingress and egress to public right of ways is required.
- B.** Landscaping, landscape buffers and greenbelts shall be provided and designed in accordance with the provisions of the Zoning Ordinance.
- C.** All elements of the site plan shall be designed to take into account the sites topography, the size and type of plot, the character of adjoining property and the type and size of buildings. The site shall be developed so as not to impede the normal and orderly development or improvement of surrounding property for uses permitted in the Zoning Ordinance.
- D.** The landscape shall be preserved in its natural state, insofar as practical, by removing only those areas of vegetation or making those alterations to the topography that are reasonably necessary to develop the site in accordance with the requirements of the Zoning Ordinance. Tree stumps and miscellaneous debris from clearing of the property shall not be buried in right of ways, possible future right of ways or potential building sites.
- E.** The site plan shall provide reasonable visual and sound privacy for all dwelling units located therein. Fences, walks, barriers and landscaping shall be used, as appropriate, to accomplish these purposes.
- F.** All buildings or groups of buildings shall be arranged so as to permit necessary emergency vehicle access as required by the Fire Department.
- G.** Streets and drives that are part of an existing or planned street pattern serving adjacent development shall be of a width appropriate to the traffic volume they will carry and shall have a dedicated right-of-way equal to that required by the Gratiot County Road Commission.
- H.** Appropriate measures shall be taken to ensure that removal of surface waters will not adversely affect neighboring properties or the public storm drainage system. Provisions shall be made to accommodate storm water, prevent erosion and the formation of dust. The use of detention/retention areas may be required. Surface water on all paved areas shall be collected at intervals so that it will not obstruct the flow of vehicular or pedestrian traffic or create puddles in paved areas.
- I.** All loading and unloading areas and outside storage areas, including areas for the storage of trash, that face or are visible from residential districts or public thorough- fares, shall be screened by an opaque wall or landscaped screen not less than six (6) feet in height.

- J. Exterior lighting shall be arranged so that it is deflected away from adjacent properties and so that it does not impede the vision of traffic along adjacent streets. Flashing or intermittent lights shall not be permitted.
- K. Buffer zones or greenbelts shall be required where a non-residential use is adjacent to residential areas.
- L. During Site Plan review, the Planning Commission may determine that existing landscaping or screening intended to be preserved is adequate. The Planning Commission may also determine dimensional conditions unique to the parcel would prevent development of required buffer zones, off-street parking area landscaping, greenbelts or required buffer zones. If so, the Planning Commission may waive, in whole or in part, the landscaping provisions of this Section. Criteria that shall be used when considering a waiver shall include, but shall not be limited to:
 1. Existing natural vegetation;
 2. Topography;
 3. Existing wetland, floodplain and poor soil areas;
 4. Existing and proposed building placement;
 5. Building heights;
 6. Adjacent land uses;
 7. Distance between land uses;
 8. Dimensional conditions unique to the parcel;
 9. Traffic sight distances;
 10. Traffic operational characteristics on and off site;
 11. Visual, noise and air pollution levels; and
 12. The health, safety and welfare of the Township and its residents.

SECTION 14.10 FINAL APPROVAL

- A. Complete drawings, plus all certified final drawings and plans which are subject to site plan review and contain all necessary modifications or additions required, shall be submitted before final site plan approval is granted.
- B. Conditions of final approval. Site plans may be approved subject to the performance of certain conditions the Planning Commission deems to be appropriate. A site plan may be approved conditionally upon necessary or required approvals by other local, county, state, or federal agencies.
 1. Performance guarantee for required conditions. Security may be required to ensure performance of required conditions. The applicant may be required to furnish security

in the form of a bond, certified check, or an irrevocable letter of credit, acceptable to the Township, in the amount fixed by the Planning Commission. If security is required, the Zoning Administrator shall not issue a land use permit until the required performance guarantee is received and verified by the Township Clerk.

2. Provisions of required improvements. Whenever a site plan approval is granted or modified subject to the conditions that specified improvements be provided by the applicant, such improvements shall be installed by the applicant and approved and accepted by the Zoning Administrator.
3. Nonperformance of required conditions. In the event the applicant defaults in making the improvements for which the performance guarantee was required, the Planning Commission shall have the right to enforce a letter of credit or to use the moneys being held as security to complete the improvements, including specifically the right to enter upon the subject property to make the improvements. If the performance guarantee is not sufficient to cover the costs incurred by the Township to complete the improvements, including attorney fees and court costs, if any, the applicant shall be required to pay the Township the amounts by which the costs of completing the improvements exceeded the amount of the performance guarantee.
4. Condition declared void. Whenever there becomes final any judgment of a court of competent jurisdiction declaring one or more of conditions of a site plan approval to be void or ineffective, or enjoining or otherwise prohibiting the enforcement or operation of one or more of such conditions, said site plan approval shall cease to be valid and all rights or privileges granted thereby shall end.
5. Violation of required condition or conditions. Whenever a site plan is approved or modified by the Planning Commission subject to a condition or conditions, the use or enjoyment of the site plan in violation of, or without observance of, any such condition shall constitute a violation of this Ordinance, and site plan approval may be revoked.

SECTION 14.11 SPECIAL USES AND CONCURRENT APPROVALS

The Planning Commission may choose to review special use permit and site plan review submittals concurrently. In the event of concurrent review, the Planning Commission shall make sure that both the site plan and special use submittals satisfy all requirements of this Ordinance. The Planning Commission retains final authority with respect to approval or denial of a special use permit.

SECTION 14.12 AMENDMENTS TO APPROVED DEVELOPMENT PLANS

- A. Amendments to an approved site plan may be made by the Planning Commission upon written request by the landowner. Minor changes to an approved site plan may be approved by the Zoning Administrator after construction has begun, provided that no such change results in any of the following:
 1. A significant change in use or character of the development.
 2. An increase in overall coverage of structures.

3. An increase in the intensity of use.
 4. A reduction in the required open space.
 5. A change that may increase the storm water runoff to adjacent properties.
 6. A reduction in required off-street parking and loading.
 7. A reduction in required pavement widths or utility sizes.
 8. A significant increase in traffic on public streets or an increase in the burden on public utilities or services.
- B.** If the Zoning Administrator finds that a proposed amendment to an approved site plan does not qualify as a minor change, he or she shall notify the landowner that he or she must apply for a modification of the site plan in accordance with the procedures of this Article, or if the developer or landowner has already effected the changes in question, the Zoning Administrator shall immediately notify the permit holder in writing that site plan approval has been suspended pending approval by the Planning Commission of the proposed amendment. The permit holder's notice shall be delivered personally or by certified mail. The permit holder shall then apply for a modification of the site plan in accordance with this Article.

SECTION 14.13 TIME LIMIT FOR APPROVED SITE PLANS

- A.** A site plan approval granted pursuant to this Article shall be valid for one (1) year from the date of approval. If construction has not commenced by the end of this period, and if a written request for extension of the approval has not been submitted by the applicant, the site plan approval shall expire.
- B.** The Planning Commission may grant extensions of the site plan approval for one (1) year periods upon submittal in writing by the applicant of a request for an extension. The Planning Commission shall grant such an extension only upon presentation of written evidence indicating that construction of the project has been delayed by factors beyond the reasonable control of the applicant and that construction on the project is likely to proceed within one (1) year.
- C.** Notwithstanding any of the above, a site plan approval shall be automatically revoked if construction has not been completed within five (5) years of the initial site plan approval.

ARTICLE 15: SPECIAL USES

SECTION 15.1 INTENT AND PURPOSE

In order to make this Ordinance a flexible zoning control and still afford protection of neighboring land uses and orderly and compatible development of property within the Township, the Township has authorized certain uses of land as special uses. Such special uses have been selected because of the unique characteristic of the use which, in the particular district involved, under certain circumstances and without proper controls, could cause it to be incompatible with the other uses permitted in that district, and would be detrimental thereto.

The classification of a use as a special use does not indicate disharmony with the purposes or intent of this Ordinance. Instead, special uses are intended to identify those uses which may be harmonious with the purpose and intent of the district in which they are located, if properly regulated. A special use will typically reflect at least some degree of deviation from the general characteristics of a district and may not entirely reflect the intent and purpose of that district, or the values generally espoused by the Master Plan. The classification of a use as a special use, however, indicates that despite these deviations, such a use is appropriate in the district in which it is located when properly regulated.

SECTION 15.2 PRE-EXISTING USES

Any existing use which is permissible by right in the district shall continue as a permissible use even if that use is later designated a special land use. Any expansion or enlargement of the original permissible use, designated now as a special use, must proceed through the special land use process for approval.

SECTION 15.3 REVIEWING AUTHORITY

The Planning Commission shall have the authority to grant, with or without conditions, or deny a special use permit.

SECTION 15.4 APPLICATION AND FEE

An application for a special use permit shall be submitted to the Planning Commission through the Zoning Administrator. The applicant shall provide the Zoning Administrator with twelve (12) copies of the application and twelve (12) sets of all required data. Each application shall be made by the owner of record of the property on which the proposed special land use is to exist or be conducted, or by an applicant, if not the owner, with a signed authorization of the property owner, and shall be accompanied by the payment of a fee as set forth in the schedule established by the Township Board to cover the costs of processing the special use permit application.

SECTION 15.5 INFORMATION REQUIRED

A. Each application shall include the following information:

1. The name, address, telephone number and signature of the property owner and applicant;
2. A full legal description of the property on which the proposed special use is to exist or be conducted, including the property tax parcel number(s), together with proof of property ownership and applicable options on the property, if any;

3. A detailed description of the proposed special use for which the permit is requested;
4. Project schedule and developments plans;
5. A vicinity map with North arrow indicated;
6. Land uses and existing structures on the subject parcel and adjoining parcels within three hundred (300) feet of the subject parcel; and
7. A written statement relative to the project's effects on existing infrastructure, including but not limited to traffic, capacity of roads, schools, existing utilities, the natural environment, and water aquifer.
8. A detailed site plan.

SECTION 15.6 PROCEDURE UPON RECEIPT OF APPLICATION

Upon receipt of a special use permit application, which is supported by all the data and fees required above, the application shall be put on the agenda for preliminary consideration at the earliest Planning Commission meeting practicable.

- A. Notice requirements. Notice that a special use application has been received and will be considered by the Planning Commission shall meet the requirements of the Michigan Zoning Enabling Act, MCL 125.3101 *et seq.*
- B. The Planning Commission shall hold a public hearing on the special use permit request.
- C. The Planning Commission shall review the request and shall establish that the standards and requirements of this Article are satisfied.
- D. Following its review of the request, the Planning Commission shall take one of the following actions:
 1. Approve the special use permit if it is found to satisfy the requirements of this Article;
 2. Approve the special use permit with conditions to ensure that it complies with the requirements of this Article; or
 3. Deny the special use permit because it is found that the proposed use fails to satisfy the requirements of this Article.
- E. Upon receipt of the Planning Commission's recommendation, the Township Board shall independently review the special use application, supporting materials, and the Planning Commission's recommendations. The Township Board, at its option, may hold an additional public hearing to assist it in its determination. After review, the Township Board shall take one of the following actions:
 1. Approve the special use permit if it is found to satisfy the requirements of this Article;
 2. Approve the special use permit with conditions to ensure that it complies with the requirements of this Article; or

3. Deny the special use permit because it is found that the proposed use fails to satisfy the requirements of this Article.

SECTION 15.7 BASIS FOR DETERMINATION

Before approval of a special use permit, the Planning Commission shall establish that the standards specified in this Section, as well as applicable standards outlined elsewhere in this Ordinance, are satisfied. Each of the proposed special land uses on the proposed location shall:

- A. Be designed, constructed, operated and maintained so as to be harmonious in effect and appropriate in appearance with the existing or intended character of the general vicinity as indicated in the Township Master Plan or other policies of the Township.
- B. Not be unduly hazardous or disturbing to existing uses in the same general vicinity and not have substantial adverse effects on surrounding property and the community as a whole.
- C. Be served adequately by essential facilities and services, such as, but not limited to, highways, streets, police, fire protection, drainage structures, refuse disposal, water and sewage facilities, and schools.
- D. Not create excessive additional requirements for public facilities and services.
- E. Not involve uses, activities, processes, materials, and equipment or conditions of operation that will be substantially detrimental to any persons, property, or the general welfare by fumes, glare, noise or odors, or any other harmful effects.
- F. Be in general compliance with the land use policies outlined in the Master Plan and the principles of sound planning and not jeopardize the economic welfare of the Township.
- G. Not directly or indirectly have a substantial adverse effect upon the natural resources of the Township, including but not limited to prime or unique agricultural lands, water recharge areas, lakes, rivers, streams, forests, wetlands, and wildlife areas.
- H. Be in compliance with the requirements of the district in which it is proposed and all other standards in this Ordinance, as well as with the requirements of the County Road Commission, County Building Code, County Drain Commissioner, County Health Department, , area fire departments, Department of Natural Resources, Department of Environment, Great Lakes, and Energy, and any other applicable Township, county, state and federal laws or regulations.
- I. Phases of development shall be in a logical sequence, so that any one phase will not depend upon a subsequent phase for adequate access, public utility services, drainage or erosion control.

SECTION 15.8 VARIANCES AS A CONDITION

Where a special use permit is granted specifically based upon the necessity for the applicant to obtain a variance, or variances, from the Zoning Board of Appeals, the permit shall not be valid until such variances are obtained.

SECTION 15.9 PERMIT EXPIRATION

A special use permit issued pursuant to the requirements of this Ordinance shall be valid for a period of one year from the date of issuance of said permit. If the construction or use has not commenced and proceeded meaningfully toward completion by the end of this period, the special use permit shall be null and void, unless an extension is granted by the Planning Commission. Notwithstanding any of the foregoing, a special use permit shall become null and void if construction is not completed within five (5) years of the date the special use permit is approved, or if the approved use has not operated during that same time.

SECTION 15.10 BINDING EFFECT; REVOCATION OF PERMIT

- A.** Any special use permit approved by the Planning Commission pursuant to the provisions of this Ordinance shall be binding between the parties, and said use shall not be modified, altered, expanded, or otherwise changed unless such a change is authorized in a writing signed by both parties. Further, such conditions shall run with the land and shall be binding on the landowner, his successors, heirs and assigns.
- B.** If at any time during the existence of a permitted special land use the land, lot, or structures are used contrary to the conditions and provisions of the permit, said use shall be deemed a violation of the special use permit and the permit may be revoked.

SECTION 15.11 INSPECTIONS

The Zoning Administrator shall be responsible for verifying compliance with the conditions imposed by a special use permit. All subgrade improvements, such as utilities, subbase and base installations for streets, drives, and parking lots, and similar improvements shall be inspected by the Zoning Administrator or other appropriate official or individual and approved before covering. It is the responsibility of the applicant to request such necessary inspections at the appropriate times. The Zoning Administrator shall report periodically to the Township Board and Planning Commission on the progress of each special use permit. He or she shall notify the Township Board and Planning Commission in writing of any failure on the part of the applicant to meet any requirement of the site plan or special use permit and will report on steps being taken to ensure compliance. The expense of any compliance inspection and related activities shall be borne solely by the permit holder.

SECTION 15.12 PERFORMANCE GUARANTEE

In the interest of ensuring compliance with the provisions of this Ordinance and protecting the natural resources and the health, safety and welfare of the residents of the Township and future users or inhabitants of an area for which a proposed special use permit has been submitted, the Planning Commission may require the applicant to deposit a performance guarantee as set forth herein.

- A.** The purpose of the performance guarantee is to ensure completion of improvements connected with the proposed use as required by this Ordinance, including but not limited to roadways, lighting, utilities, sidewalks, drainage, fences, berms, screens, walls, landscaping, reclamation, parking, or signage, or related restoration activities.
- B.** "Performance guarantee" as used herein shall mean a cash deposit, certified check, or irrevocable letter of credit in an amount equal to the estimated cost of completing or

removing any improvements as determined by the applicant and verified by the Planning Commission.

- C. The performance guarantee shall be deposited with the Township at the time of the issuance of the permit authorizing the activity or project. No special use permit may be issued before the receipt of the required performance guarantee.
- D. Upon the satisfactory completion of the improvements for which the performance guarantee was required, the Clerk shall return to the applicant the performance guarantee deposited and any interest earned thereon.
- E. In the event that the applicant defaults in making the improvements for which the performance guarantee was required within the time period as agreed to in the site plan, the Township shall have the right to use the performance guarantee deposited and any interest earned thereon to complete the improvements. Should the Township use the performance guarantee or a portion thereof to complete the required improvements, any amounts remaining after said completion shall be applied first to Township costs in completing the improvements, with any balance remaining being refunded to the applicant. If the performance guarantee is not sufficient to allow the Township to complete the improvements for which it was given, the applicant shall be required to pay the Township the amount by which the costs of completing the improvement exceeded the amount of the performance guarantee deposited.

SECTION 15.13 REGULATIONS ASSOCIATED WITH SPECIFIC USES

A. ADULT BUSINESSES

1. Purpose and Intent

The purpose and intent of this Section pertaining to the regulation of adult businesses is to regulate the location and operation of, but not to exclude, sexually oriented businesses within the township, and to minimize their negative secondary effects. It is recognized that sexually oriented businesses, because of their very nature, have serious objectionable operational characteristics that cause negative secondary effects upon nearby residential, educational, religious, and other similar public and private uses. The regulation of sexually oriented businesses is necessary to ensure that their negative secondary effects will not contribute to the blighting or downgrading of surrounding areas and will not negatively impact the health, safety, and general welfare of township residents. The provisions of this Ordinance are not intended to offend the guarantees of the First Amendment to the United States Constitution or to deny adults access to sexually oriented businesses and their products, or to deny sexually oriented businesses access to their intended market. Neither is it the intent of this Ordinance to legitimize activities that are prohibited by Township ordinance, state or federal law. If any portion of this Ordinance relating to the regulation of sexually oriented businesses or referenced in those sections is found to be invalid or unconstitutional by a court of competent jurisdiction, the Township intends that portion to be disregarded, reduced and/or revised so as to be recognized to the fullest extent possible by law. The Township further states that it would have passed and adopted what remains of any

portion of this Ordinance relating to regulation of sexually oriented businesses following the removal, reduction or revision of any portion so found to be invalid or unconstitutional.

2. Standards and Additional Requirements

In order to prevent undesirable concentration of such uses, the following uses and activities shall not be located within one thousand (1,000) feet of any other such use, nor within one thousand (1,000) feet of a church or school, nor within three hundred (300) feet of any residentially zoned district or property being used as a residence in other zoned districts, as measured along a line forming the shortest distance between any portion of the respective properties of the following:

- a. Adult book store;
- b. Adult mini motion picture theatre;
- c. Adult motion picture theatre; and
- d. Adult smoking or sexual paraphernalia store;

3. Waiver of Requirements

The Planning Commission may waive the foregoing spacing requirements if it finds the following conditions exist:

- a. The proposed use will not be contrary to the public interests or injurious to nearby properties in the proposed location;
- b. The proposed use will not enhance or promote a deleterious effect upon adjacent areas by causing or encouraging blight, a chilling effect upon other businesses and occupants, or a disruption in neighborhood development;
- c. The establishment of the additional regulated use in the area will not be contrary to any program of neighborhood conservation nor interfere with any program of urban renewal;
- d. All other applicable regulations within this Ordinance or other pertinent township ordinances will be observed.

B. AUTOMOBILE SERVICE STATIONS

1. Automobile service stations shall be subject to the following requirements:

- a. Ingress and egress shall be setback at least twenty-five (25) feet from any intersection or residential district.
- b. All lighting shall be shielded from residential districts.

- c. The fencing and screening requirements of this Ordinance must be satisfied. Minimum lot area shall be ten thousand (10,000) square feet.
- d. Minimum lot frontage shall be one hundred (100) feet.
- e. Must provide adequate off-street stacking space for vehicles waiting in line. No vehicle shall be permitted to wait within the right-of-way.
- f. Gasoline pumps, air and water hose stands, and other appurtenances shall be setback not less than fifteen (15) feet from any right-of-way.

C. CAMPGROUNDS

- 1. Recreational vehicle parks and campgrounds shall be subject to the following requirements:
 - a. Must comply with all State and County health requirements governing recreational vehicle parks and camping areas for public use.
 - b. Minimum lot area of five (5) acres.
 - c. No person shall occupy any recreational vehicle park or campsite for more than 6 months in a calendar year.
 - d. Must be screened from public streets and thoroughfares

D. COLLEGES AND UNIVERSITIES

- 1. Colleges, universities and other institutions of higher learning shall be subject to the following requirements:
 - a. Minimum lot area of twenty (20) acres.
 - b. All ingress and egress shall be directly onto a major or secondary thoroughfare.
 - c. All non-residential structures shall be setback at least fifty (50) feet from any property line.

E. COMMERCIAL DAY CARE

- 1. Subject to the same restrictions applicable to group child care homes
- 2. Must maintain a setback of one thousand and five hundred (1,500) feet from any other commercial day care.
- 3. Must also maintain a minimum of one thousand (1,000) square feet of outdoor play area, with an additional one hundred (100) square feet of outdoor play area for every additional child so cared for beyond ten (10) children.
- 4. The outdoor play area shall be enclosed by a wall or fence at least four and a half (4.5) feet in height.

F. CONDOMINIUMS

- 1. Purpose and Intent.** The intent of this article is to regulate the division and development of land under the Condominium Act (PA 59 of 1978) so that the development is comparable in quality of design to property divided and developed by other methods.
- 2. Review Requirements.** In order to ensure compliance with this Ordinance, all condominium developments shall go through the site plan review process, including developments consisting solely of single family or duplex residences that may otherwise not be required to prepare a site plan. In addition to the information required for site plan review generally, all applicants for condominium site plan review shall submit the following information:
 - a.** A copy of the proposed condominium master deed.
 - b.** A copy of the proposed condominium subdivision plan (this may replace the site plan normally required for site plan review).
 - c.** A copy of the proposed condominium bylaws.
- 3. Zoning Ordinance Standards.**
 - a.** Lot Size. In conventional condominium development the entire site must meet the minimum lot size requirements for the zoning district the parcel is located in. For site condominiums developments, each condominium unit and its associated limited common area are considered equivalent to a “lot” and must meet the minimum lot size requirements for the zoning district the parcel is located in.
 - b.** Setbacks. In conventional condominium development, the buildings must be setback from the site’s boundaries as required in the zoning district the parcel is in, while the setback from other buildings must meet the building setback requirements applicable to multi-family residences.
- 4. Roads.**
 - a.** All roads within the site condominium development shall be paved, dedicated public roads built to the standards of the Gratiot County Road Commission.

G. DRIVE-THROUGH RESTAURANTS AND OPEN-FRONT STORES

- 1.** Drive-through restaurants and open-front stores shall be subject to the following requirements:
 - a.** Must be setback at least sixty (60) feet from any right-of-way.
 - b.** Ingress and egress shall be setback at least sixty (60) feet from any intersection.
 - c.** Must provide adequate off-street stacking space for vehicles waiting in line. No vehicle shall be permitted to wait within the right-of-way.

- d. All lighting shall be shielded from residential districts.
- e. The fencing and screening requirements of this Ordinance must be satisfied.

H. GROUP DAY CARE HOMES

1. A group day care home shall be issued a special use permit if the following standards are met:
 - a. It is not located closer than one thousand five hundred (1,500) feet to any of the following:
 - i. Another licensed group child care home.
 - ii. An adult foster care small group home or large group home licensed under the adult foster care facility licensing act, MCL 400.701 et seq.
 - iii. A facility offering substance abuse treatment and rehabilitation service to seven (7) or more people licensed under article 6 of the public health code, MCL 333.6101 et seq.
 - iv. A community correction center, resident home, halfway house, or other similar facility which houses an inmate population under the jurisdiction of the department of corrections.
 - b. Has appropriate fencing for the safety of the children in the group child care home as determined by the local unit of government.
 - c. Maintains property consistent with the characteristics of neighborhood.
 - d. Does not exceed sixteen (16) hours of operation during a 24-hour period. Hours may be limited between 10:00PM and 6:00AM, but operation may not be prohibited during that time.
 - e. Meets regulations governing the signs used to identify itself.
 - f. Meets regulations requiring the operator to provide off-street parking accommodations for employees.

I. GROUP DAY CHILD CARE HOMES

1. Group day care homes and commercial day care facilities shall be subject to the following requirements:
 - a. It is setback at least one thousand and five hundred (1,500) feet from any of the following:
 - i. Another group day care home.
 - ii. An adult foster care small group home or large group home licensed under the adult foster care facility licensing act, 1979 PA 218, MCL 400.701 to 400.737.

- iii. A facility offering substance abuse treatment and rehabilitation service to 7 or more people licensed under article 6 of the public health code, 1978 PA 368, MCL 333.6101 to 333.6523.
 - iv. A community correction center, resident home, halfway home or another similar facility which houses an inmate population under the jurisdiction of the Department of Corrections.
- b. The site is surrounded by a fence or wall as specified in this Ordinance.
 - c. The property must be maintained in a manner consistent with the visible characteristics of the neighborhood.
 - d. Hours of operation are limited to sixteen (16) hours during a twenty-four (24) hour period. Group child care homes shall not operate, at minimum, between the hours of 12:00PM and 4:00AM.
 - e. The group child care home complies with the provisions of this Ordinance relating to signs and off-street parking.

J. HOME OCCUPATIONS

1. The occupation must take place entirely within the principal dwelling.
2. The occupation shall not have a separate entrance from the outside of the building.
3. No activity shall involve alterations or construction not customarily found in dwellings.
4. No mechanical equipment shall be used except that which is used normally for purely domestic or residential purposes.
5. No more than one non-family member may be employed in a home occupation.
6. No activity shall be an unreasonable nuisance to its immediate neighbors or neighborhood.
7. The use of a dwelling unit shall be incidental and subordinate to its residential purpose, and not exceed 25% of the total floor area of the dwelling, up to a maximum permitted floor area of five hundred (500) square feet.
8. The outside appearance of the property shall remain unchanged, and there shall be no evidence of the home occupation occurring.
9. No article may be sold on the property unless prepared on the property or provided as incidental to the service offered.
10. Traffic may not exceed the traffic to a normal residence, with parking limited to two on-premises parking spaces. No parking may occur in the front yard.

11. No storage of materials, equipment, or refuse related to the occupation may be stored outside.
12. The occupation may not create a fire, explosion, or radioactivity hazard.
13. No more than one non-animated, non-illuminated wall sign is permitted. This sign shall not exceed an area of two (2) square feet.
14. No home occupation shall be a tattoo, piercing, or massage parlor.
15. No portion of any lot or parcel used once to comply with the provisions of this Ordinance for yards, lot area, or any other requirement herein shall be used a second time to satisfy said requirements for any other structure or building.

K. JUNK YARD

1. Site must be entirely enclosed by an eight (8) foot screening wall.
2. No burning may take place on-site.

L. KENNELS

1. Outdoor kennels:

- a. Must be located on a minimum of five (5) acres. Ten (10) dogs are permitted for the first five (5) acres, and 1 additional dog for each additional half (1/2) acre, with a maximum of twenty (20) dogs.
- b. Buildings and runs for the housing of dogs shall be a minimum of one hundred (100) feet from any lot line.
- c. Outside runs must be individually fenced and paved with concrete.
- d. Dogs must be housed within an enclosed building between the hours of 9:00 p.m. and 7:00 a.m. each day.
- e. Retention and storage of animal waste will not be allowed. Such waste must be disposed of in a sanitary manner on a daily basis in accordance with the Michigan Department of Health requirements.
- f. Kennels shall be operated in conformance with all applicable county, township, state and federal regulations and American Boarding Kennel Standards.

2. Indoor kennels:

- a. The kennel shall be housed within an enclosed, soundproof, heated, ventilated building with concrete floors throughout.
- b. Kennels shall be operated in conformance with all applicable Township, county, state and federal regulations and industry standards.

- c. The facility shall be arranged in such a manner as to insure safe and controlled transfer of animals from vehicles to the kennel building.
- d. Any outdoor exercise enclosure shall be screened with a solid wall.
- e. Retention and storage of animal waste produced will not be allowed. Such waste must be disposed of in a sanitary manner on a daily basis in accordance with the Michigan Department of Health requirements.
- f. Minimum setback of one hundred (100) feet is required.

M. MARIHUANA FACILITIES AND ESTABLISHMENTS

1. Prohibition of Commercial Medical Marihuana Facilities and Marihuana Establishments.
 - a. *Uses Prohibited.* Commercial Medical Marihuana Facilities and Marihuana Establishments defined in this Ordinance are prohibited from operating within the Township, and no property within the Township may be used for the operation of such Facilities or Establishments. No person shall operate, cause to be operated, or permit to be operated a Commercial Medical Marihuana Facility or Marihuana Establishment in the Township.
 - b. *Qualifying Patients and Primary Caregivers.* Nothing in this Ordinance shall be construed to prohibit, regulate or otherwise impair the use or cultivation of Medical Marijuana by Qualifying Patients and Primary Caregivers in strict compliance with the Michigan Medical Marihuana Act, codified at MCL 333.26421 *et seq.*, or any rules or regulations promulgated thereunder. The operation of a dispensary, provisioning center, marihuana growing facility or similar business operation that allows or facilitates conduct not expressly permitted under the Michigan Medical Marihuana Act is prohibited, including but not limited to facilities allowing Patient-to-Patient transfers, multiple Primary Caregivers operating from a single facility, or a Primary Caregiver serving more than five (5) Qualifying Patients.

N. MINING AND EXTRACTION OPERATIONS

1. Minimum Parcel Size: The minimum parcel or lot size for a mining and extraction operation shall be five (5) acres.
2. Specific Requirements: In addition to the information required on the standard special use permit application, the applicant shall provide the following information with the application for the initial special use permit and for any renewal of the special use permit:
 - a. Name and address of the person, firm or corporation who will be conducting the actual mining and extraction operations, if different than the applicant.
 - b. Location, size, and legal description of the area from which the removal is to be made.

- c. Type of materials or resources to be mined, stockpiled, or hauled away.
- d. Proposed method of removal and general haul route.
- e. General description of types of equipment to be used.
- f. The estimated number of years to complete operations and number of phases where appropriate.
- g. A plan of operation with which the applicant and operator will be expected to comply during the period for which the license is issued. The plan of operation shall include a topographic survey of the existing parcel drawn to a scale of 1 inch = 100 feet and prepared by a registered civil engineer or registered land surveyor with contour intervals not to exceed ten (10) feet based upon U.S.G.S. datum. The drawing shall also clearly show the area to be mined, including existing areas and roads within one hundred (100) feet of all property lines, areas for stockpiling, maintenance areas, berms, fencing, and similar use areas. The plan of operation shall be accompanied by a projected schedule of mining and extraction operations, including the following specific dates:
 - i. Commencement and completion of mining and extraction operations as provided by the plan of operation;
 - ii. Commencement and completion of erosion and drainage control measures to be instituted during mining and extraction operations; and
 - iii. Commencement and completion of fencing, roads, utilities, or any other structures or improvements to be located on the site as provided by the plan of operation.
- h. A plan of reclamation, which shall be submitted in three parts: (1) A recent aerial photograph with a general plan of reclamation as an overlay or as a separate drawing; (2) a reclamation contour plat, (3) and a description of reclamation methods and materials proposed for renewal of topsoil and replanting. The plan of reclamation shall be presented at the same scale as the aerial photograph and shall provide the following information:
 - i. The general area of completely reclaimed land.
 - ii. The general area of reclamation under way.
 - iii. The general area currently used for topsoil and overburden storage.
 - iv. The general area proposed for reclamation during the 2-year period of the special use permit.
 - v. The general area proposed for topsoil and overburden storage.
 - vi. The acreage for each item shown on the overlay or separate drawing.

- vii.** A reclamation contour plat with contour intervals not to exceed 2 feet indicating the general grade and slopes to which excavated areas are to be reclaimed.
 - viii.** A description of the methods and materials proposed for restoration of topsoil to the required fertility and the amount of any type of planting as a part of the reclamation plan.
 - ix.** The projected schedule of reclamation operations, including the following specific dates:
 - a)** Commencement and completion of reclamation operations as provided by the reclamation plan;
 - b)** Commencement and completion of erosion and drainage control measures to be instituted under the reclamation plan; and
 - c)** Commencement and completion of final grading, top-soil replacement, and replanting or landscaping as provided by the reclamation plan.
 - x.** Operation and reclamation plans shall be prepared to clearly depict and describe the sequence of mining operations including existing conditions, mining underway, mining completed, reclamation underway, reclamation completed, mining proposed, reclamation proposed, stock piles, roadways, and similar land use elements. All operation and reclamation plans shall be reviewed by the Planning Commission and subject to its approval, disapproval or modification.
 - i.** Escrow Deposit: All applications shall be accompanied by an escrow deposit, in addition to the ordinary permit fee, to be paid by the applicant in an amount established by the Planning Commission, which escrow deposit shall approximate the cost of reviewing, obtaining legal and engineering assistance for the Township and issuing the special use permit.
- 3.** Issuance and Renewal: Special use permits for mining and extraction operations may be approved for periods up to five (5) years, subject to renewal. The renewal process and review shall be the same as for the initial permit.
 - 4.** Performance Guarantee: Prior to issuance of the special use permit, the applicant shall post a performance guarantee in such form and amount determined by the Planning Commission to be reasonably necessary to insure compliance with the operation and reclamation plans and any other requirements or conditions imposed. The Township shall have the right to use the performance guarantee to the extent necessary to reclaim the parcel. This performance guarantee shall be kept in effect by the applicant until the Planning Commission certifies in writing that the parcel or parcels have been restored as required by this Ordinance. In fixing the amount of performance guarantee, the Planning Commission shall take into account the size and scope of the proposed operation, current prevailing cost of reclaiming the premises upon default of the operator, and other such conditions and factors as may

be relevant in determining a reasonable performance guarantee. The applicant shall notify the guarantor and provide proof thereof that the Township shall be notified in the event of any lapse in the effectiveness of the guarantee. For each acre restored and reclaimed in accordance herewith, or otherwise, the guarantee may be reduced pro-rata as determined by the Planning Commission. The amount of the guarantee will apply to all lands occupied by mining areas, roadways, storage areas, equipment, stockpiles, and similar elements.

5. Setback: There shall be a minimum setback of fifty (50) feet from any street, highway or road right-of-way line or adjoining lot line, within which no mining or extraction activities shall take place.

6. Fencing and Screening:

a. All excavated and mined areas shall be fenced with a six (6) foot-high fence and shall be posted so as to indicate the danger of trespassing in the area. The minimum specifications for the fencing shall be as follows: #9 gauge top wire; #12 gauge bottom wire with spacing of six (6) inches by twelve (12) inches. All stays shall be of fourteen (14) gauge wire with spacing of support posts to be no greater than sixteen (16) feet apart.

b. All active mining excavations and stockpile areas shall be visually screened from view from all adjacent public highways and residentially used parcels to a person standing on the paved portion of the public highway or on the lot line of adjacent residentially used parcels. The following methods are acceptable for screening of mining and extraction areas:

i. Construction of a raised earth berm area on the mining site along boundary lines thereof where such lines abut a public highway or abut privately owned property that is improved and occupied for residential purposes. This provision with regard to lands improved and occupied for residential purposes shall be applicable to any land upon which dwellings are built and occupied on or after the date this Ordinance is adopted. The berm shall be sufficient in length and height to screen the mining or stockpile area. During the planting season next following the placement of the berm and as often as may be necessary to assure the existence of a vegetative ground cover, the applicant shall seed or plant the berm in a manner suitable for the area and soil conditions so as to provide vegetation to check erosion and to provide a visible ground cover substantially similar to the vegetation cover growing in adjacent fields. Where the topography of the area acts as a screen, the Planning Commission may waive the berm requirement. The berm shall have slopes not in excess of one foot vertical to two (2) feet horizontal.

ii. Planting of coniferous trees along the boundaries of the property with sufficient rows and depth to permit effective screening of the mining area.

iii. To the extent that the foregoing is not practical, the applicant may submit alternate proposals. The amount and extent of required screening shall be reasonable and practical as determined by the Planning Commission.

7. Hours of Operation: Maximum hours of operation of the mining operation shall be 8:00 a.m. to 6:00 p.m., Monday through Friday. No hours of operation shall be permitted on weekends or legal holidays. In emergencies this time period may be modified by the Zoning Administrator, provided such emergency order shall not be effective for more than seventy-two (72) hours.
8. Road Access: All sites permitted under the provisions of this Section shall have direct access to a County road having a minimum right-of-way width of sixty-six (66) feet and improved to the specifications of the Gratiot County Road Commission. When the permitted operation results in the mined material, overburden and/or similar material being deposited or spilled upon the public roadway, it shall be the responsibility of the applicant to remove such material immediately.
9. Road Maintenance: Access roads within the permitted site shall be maintained by the applicant so as to minimize the dust arising from the use of the roads. Such maintenance shall be accomplished through the application of chloride, water and/or similar dust retardant material. Application of oil shall be prohibited. A paved road from the entrance and exit, a distance of not less than one hundred (100) feet from the right-of-way line into the area of operation shall be provided in order to minimize the deposit of dirt and gravel from trucks onto the public highway. Entrances and exits shall be securely locked during hours of in operation.
10. Operation of Use: All equipment and facilities used in the mining of sand, gravel, and stone shall be conducted, maintained, and operated in such manner as to eliminate insofar as practicable, noises, vibrations, or dust that interfere with the reasonable use and enjoyment of surrounding property.
11. Noise Standards: Mining sites shall be operated such that the noise of operation or equipment vibration cannot reasonably be considered disturbing to neighboring uses of land. Objectionable noises due to intermittence, beat, frequency, or shrillness shall be muffled so as not to become a nuisance to adjacent uses. Equipment on permitted sites at any time or under any condition shall not be operated so as to result in noise that would be offensive to a person of normal sensitivities outdoors on any property line abutting a property used for residential purposes.

O. OUTDOOR RECREATION ESTABLISHMENTS

1. Outdoor recreation establishments shall be subject to the following requirements:
 - a. All lighting shall be shielded from adjacent residential districts.
 - b. Off-street parking areas be provided and shall be fenced on all sides by a four and a half (4.5) foot wall or fence where adjacent to the outdoor recreation establishment.
 - c. Appropriate fencing shall be provided as established in this Ordinance.
 - d. Rebound tumbling facilities shall be fenced on all sides used for trampoline activity with a fence or wall at least six (6) feet tall. Trampoline pits shall not

exceed four (4) feet in depth, shall be drained at all times, and shall be filled with earth to grade when the use is discontinued.

- e. No loudspeaker or public-address system shall be used except by the written consent of the Planning Commission.
2. Specific Use Requirements. The following uses are required to adhere to additional specific requirements. These uses are not intended to limit the scope of what will be considered “outdoor recreation establishments,” and are merely intended to address specific and common uses falling within that definition.
- a. Golf courses shall be subject to the following requirements:
 - i. Major accessory uses such as a restaurant and bar shall be housed in a single building with the club house. Minor accessory uses strictly related to the operation of the golf course itself, such as maintenance garage and pro shop or golf shop, may be located in separate structures. Structures shall be setback seventy-five (75) feet from the lot line of any adjacent property or right-of-way.
 - ii. All parking areas shall be surfaced or treated so as to prevent any dust nuisance.
 - iii. All ingress and egress from the site shall be directly onto a major or secondary thoroughfare.
 - iv. All outdoor lighting shall be shielded to reduce glare and arranged so as to reflect the light away from abutting residential areas.
 - v. Whenever included, swimming pools shall be provided with a with a protective fence which meets the minimum height requirements of the building code and entry shall be provided by means of a controlled gate or turnstile.
 - b. Outdoor theatres shall be subject to the following requirements:
 - i. Must be located completely within the Industrial District.
 - ii. The proposed internal design shall receive approval from the Zoning Administrator and the Township Engineer as to adequacy of drainage, lighting and other technical aspects.
 - iii. Points of ingress and egress shall be available from a major thoroughfare.
 - iv. Minimum lot frontage shall be one hundred and twenty (120) feet on a major thoroughfare.
 - v. One stacking space shall be provided for every ten (10) parking spaces. No vehicle shall be permitted to wait for parking within the right-of-way.

- c. Swimming pools open to the public shall be subject to the following requirements:
 - i. Must have a six (6) foot wall or fence surrounding all sides of the pool.
 - ii. Access to the pool must be provided only by a controlled gate.
 - iii. All lighting shall be shielded from residential districts.
- d. Riding academies shall be subject to the following requirements:
 - i. All structures and facilities shall be located in the Agricultural District.
 - ii. The Planning Commission may approve riding in rugged or underdeveloped portions of the Single-Family Residential District.
 - iii. Animal housing facilities shall be setback at least two hundred and fifty (250) feet from any residential structure.
- e. Racetracks. Because racetracks develop a concentration of vehicular traffic in terms of ingress and egress from their parking area and cause noise levels which may project beyond the property so used, they shall be permitted subject to the following requirements:
 - i. Racetracks shall be located only on major thoroughfares within the Industrial District on parcels that are abutted by land zoned for industrial purposes on all sides.
 - ii. The parking and access requirements of this Ordinance must be satisfied.
 - iii. All sides of the development not abutting a major thoroughfare shall be provided with a twenty (20) foot tall green belt planting and fence or wall so as to obscure from view all activities within the development.
 - iv. No motorized vehicle, loudspeaker or public-address system shall be operated between the hours of 11:00 p.m. and 8:00 a.m., except by the written consent of the Planning Commission.

P. OUTDOOR SALES

- 1. Outdoor sales shall be subject to the following requirements:
 - a. All lighting shall be shielded from residential districts.
 - b. Ingress and egress to the outdoor sales area shall be setback at least twenty-five (25) feet from any intersection or residential district.
 - c. The fencing and screening requirements of this Ordinance must be satisfied.

Q. SHOOTING RANGES

- 1. Design and Operation Standards.** The design and operation of shooting ranges shall be consistent with the specifications and best practices recommended by the National Rifle Association; and shall conform to the generally accepted operation practices adopted pursuant to the Michigan Sport Shooting Ranges Act, Public Act 269 of 1989. The design of the shooting range shall clearly show that safety of persons on and off the site is guaranteed. This shall mean that no projectile of any kind may be permitted to leave the site. Unless this safety requirement is clearly indicated by the design plans, a permit shall not be issued.
- 2. Dimensional Requirements.** Shooting ranges must be located on a parcel of eighty (80) acres or more in area. Any area used for shooting activities must be located at least four hundred and fifty (450) feet from a lot line of any adjacent residential district.
- 3. Parking.** Off-street parking shall comply with Article 14.
- 4. Hours of Operation.** Shooting on the range shall be limited to the hours between sunrise and sunset but not prior to 9:00 a.m. or later than 8:00 p.m. The Township Board may apply more restrictive hours where protection for adjoining residents is necessary.

R. SOLAR ENERGY

- 1. Solar Energy Systems, General Regulations**
 - a.** Any Small Solar Energy System mounted on the ground shall comply with those requirements applicable to an accessory building, or those requirements applicable to an accessory building within the zoning district in which the Solar Energy System is located, whichever are more stringent.
 - b.** A site plan shall be prepared and submitted to the Zoning Administrator for approval prior to commencing installation. The site plan shall include the proposed location and an elevation drawing showing the proposed height and foundation details.
 - c.** Small Solar Energy Systems shall not be constructed or installed in the front yard of any lot, absent a showing that the Solar Energy System cannot be operated efficiently on any other location on the property, and that such operation will not unreasonably interfere with adjacent properties.
 - d.** Any Small Solar Energy System erected on a building shall not extend beyond the peak of the roof, provided that a Small Solar Energy System erected on a flat roof shall otherwise comply with the other requirements of this Section. In no event shall any portion of a Solar Energy System extend beyond the lesser of either thirty (30) feet or the maximum building height permitted within the district in which that Solar Energy System is located.

- e. Any Solar Energy System mounted on the roof of a property must be installed with a minimum three (3) foot setback from the edges of the roof, the peak, the eave, or the valley.
- f. No Solar Energy System shall be installed in such a way as to pose an Unreasonable Safety Hazard.
- g. All Solar Energy Systems must conform to all applicable federal, state and county requirements, in addition to other applicable Township Ordinances, as well as any applicable industry standards.
- h. All Solar Energy Systems must be installed in a manner ensuring that concentrated solar glare shall not be directed onto nearby properties or roadways.
- i. Any Small Solar Energy System mounted on the ground shall be sufficiently screened from the view of adjacent properties or roadways through the use of solid fencing consistent, or the installation of a wall, hedge, or other vegetation not less than four (4) feet and no more than eight (8) feet in height.
- j. All power transmission lines from a ground-mounted Solar Energy System to any building or other structure shall be located underground. The Planning Commission may waive this requirement, or may limit it through conditions, if it determines that it would be impractical or unreasonably expensive to install, place or maintain such transmission lines underground.
- k. Any Solar Energy System and the surrounding premises must be kept and maintained in good repair and condition at all times and must continuously conform with all applicable building and electrical codes. This shall include, but is not limited to, ensuring that any fencing is maintained to provide sufficient protection and screening, that the property is kept clear of trash and other debris, that all aspects of the Solar Energy System are maintained according to industry standards, and that no portion of the Solar Energy System is in a blighted, unsafe, or substandard manner.
- l. An Abandoned Solar Energy System shall be removed by the property owner within six (6) months.

2. Large Solar Energy Systems

- a. Purpose and Intent: The purpose and intent of this Subsection is to establish standards for the siting, installation, operation, repair, decommissioning and removal of Large Solar Energy Systems as a special use.
- b. Site Plan Drawing and Supporting Materials: All applications for a Large Solar Energy System must be accompanied by detailed site plans, drawn to scale and dimensioned and certified by a registered engineer licensed in the State of Michigan, displaying the following information, in addition to the information required by Article 16:
 - i. A site plan.

- ii.** All lot lines and dimensions, including a legal description of each lot or parcel comprising the Large Solar Energy System.
- iii.** Names of owners of each lot or parcel within the Township that is proposed to be within the Large Solar Energy System.
- iv.** Vicinity map showing the location of all surrounding land uses.
- v.** Location and height of all proposed Solar Array(s), buildings, structures, electrical tie lines and transmission lines, security fencing, and all above-ground structures and utilities associated with the Large Solar Energy System.
- vi.** Horizontal and vertical (elevation) scale drawings with dimensions that show the location of the proposed Solar Array(s), buildings, structures, electrical tie lines and transmission lines, security fencing and all above ground structures and utilities on the property.
- vii.** Location of all existing and proposed overhead and underground electrical transmission or distribution lines within the Large Solar Energy System and within one thousand (1,000) feet of the outside perimeter of the Large Solar Energy System.
- viii.** Proposed setbacks from the Solar Array(s) to all boundary lines and all existing and proposed structures within the Large Solar Energy System.
- ix.** Land elevations for the Solar Array(s) location and the relationship to the land elevations of all existing and proposed structures within the Large Solar Energy System.
- x.** Access driveways within and to the Large Solar Energy System, together with a detailed narrative regarding dimensions, composition, and maintenance of each proposed driveway. All access drives shall be subject to Gratiot County Road Commission or Michigan Department of Transportation approval as appropriate and shall be planned so as to minimize the use of lands for that purpose.
- xi.** Planned security measures to prevent unauthorized trespass and access and to warn of potential dangers during the construction, operation, removal, maintenance or repair of the Large Solar Energy System.
- xii.** A written description of the maintenance program to be used for the Solar Array(s) and other components of the Large Solar Energy System, including decommissioning and removal procedures when determined by the Township to be obsolete, uneconomic or an Abandoned Solar Energy System. The description shall include maintenance schedules, types of maintenance to be performed, and decommissioning and removal procedures and schedules if the Large Solar Energy System becomes obsolete, uneconomical or an Abandoned Solar Energy System.

- xiii.** A copy of the manufacturer's safety measures.
 - xiv.** Planned lighting protection measures.
 - xv.** The environmental impact of the Large Solar Energy System, as reflected in an environmental impact study, including, but not limited to, a review of the following factors:
 - a)** Impact on area water resources;
 - b)** Impact on air quality;
 - c)** Noise impacts caused by the Solar Energy System;
 - d)** Impact on utilities and infrastructure;
 - e)** Protection of neighboring property owners and children;
 - f)** Impact on wildlife;
 - g)** Effects on floodplains and wetlands;
 - h)** Unique farmlands or soils;
 - i)** Areas of aesthetic or historical importance;
 - j)** Archeological or cultural concerns; and
 - k)** Any other environmental factors typically evaluated by other members of the commercial energy industry when evaluating locations for a proposed power-generating facility.
 - xvi.** A written description of measures to be taken to support the flow of rainwater throughout the Large Solar Energy System, including any measures to promote the growth of vegetation beneath the arrays and/or otherwise limit the impacts of storm water runoff. The measures shall be subject to the approval of the Gratiot County Drain Commission.
 - xvii.** A written contract with any energy provider or other purchaser of the energy produced by the Large Solar Energy System, demonstrating a commitment to purchase said energy. If this information is considered a confidential trade secret, the Township, upon written request from an energy provider, will keep such information confidential to the extent and through the means authorized by Public Act 442 of 1976.
 - xviii.** Additional detail(s) and information as required by the Conditional Land Use requirements of the Zoning Ordinance, or as required by the Township.
- c.** Application Escrow Deposit: An escrow deposit shall be paid to the Township by the applicant when the applicant applies for a special use permit for a Large Solar Energy System. The monetary amount deposited by the applicant in escrow with

the Township shall be the amount estimated by the Township to cover all reasonable costs and expenses associated with the special use permit review and approval process, which costs shall include, but are not limited to, reasonable fees of the Township Attorney, Township Planner and Township Engineer, as well as costs for any reports or studies that are reasonably related to the zoning review process for the application. Such escrow amount shall be in addition to any filing or application fees established by resolution. At any point during the special use permit review process, the Township may require that the applicant place additional funds into escrow with the Township if the existing escrow amount deposited by the applicant is deemed insufficient by the Township. If the escrow account needs replenishing and the applicant refuses to do so promptly, the special use permit process shall cease unless and until the applicant makes the required additional escrow deposit. Any applicable zoning escrow resolutions or other ordinances adopted by the Township must also be complied with by the applicant.

- d. Compliance with the State Building Code and the National Electric Safety Code: Construction of a Large Solar Energy System shall comply with the National Electric Safety Code and the state construction codes as administered and enforced by the Township (as shown by approval by the Township) as a condition of any special use permit under this section.
- e. 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 (“ETL”), or other similar certification organization acceptable to the Township.
- f. Height: Maximum height of a Solar Array shall not exceed fifteen (15) feet. Other collection devices, components or buildings of the Large Solar Energy System shall not exceed thirty-five (35) feet, or the maximum building height permitted within the district in which that Solar Energy System is located, whichever is less, at any time or location on the property. The height shall be measured from the natural grade at the base of the Solar Array, device, component or building measured. The Planning Commission may waive or modify these height requirements for certain aspects of a Solar Energy System (such as structures associated with above-ground transmission lines) through the implementation of conditions when appropriate.
- g. Lot Size: A Large Solar Energy System shall be located on one or more parcels with an aggregate area of ten (10) acres or greater.
- h. Setbacks: A minimum setback distance of one hundred (100) feet from all property boundaries on the outside perimeter of the Large Solar Energy System shall be required for all buildings and Solar Arrays except for property boundaries where the applicable adjoining owner(s) agree to lessen or increase that setback distance by executing a signed written waiver of this requirement in recordable form, provided no such waiver shall act to permit less than the required minimum setback of the applicable zoning district.
- i. Lot Coverage: A Large Solar Energy System is exempt from maximum lot coverage limitations.

- j. Screening/Security:** A Large Solar Energy System shall be completely enclosed by perimeter security fencing to restrict unauthorized access. Such fencing shall be 8 feet in height as measured from the natural grade of the fencing perimeter. Electric fencing is not permitted. The perimeter of Large Solar Energy Systems shall also be screened and buffered by greenbelts whenever existing natural forest vegetation does not otherwise continuously obscure the Large Solar Energy System's entire perimeter from adjacent parcels, subject to the following requirements:
- i.** Unless screened and buffered at all times by natural forest vegetation meeting the minimum spacing and height requirements, and having a substantially similar obscuring effect of an evergreen vegetative buffer installed pursuant to this Section, a continuous evergreen vegetative buffer shall be installed and maintained at all times at the perimeter of the all Large Solar Energy Systems, including without limitation between such Large Solar Energy Systems and adjacent residential or agricultural areas and/or public highways or streets. Nothing contained herein shall be construed to prevent reasonable access to any Large Solar Energy System as approved by the special use permit.
 - ii.** The evergreen or native vegetative buffer shall be composed of native or evergreen trees that at planting shall be a minimum of four (4) feet in height and shrubs two (2) feet in height. The evergreen trees shall be spaced no more than fifteen (15) feet apart on center (from the central trunk of one plant to the central trunk of the next plant), native trees shall be placed no more than thirty (30) feet apart on center and shrubs shall be spaced no more than seven (7) feet apart on center. All unhealthy (60 percent dead or greater) and dead material shall be replaced by the applicant within six (6) months, or the next appropriate planting period, whichever occurs first, but under no circumstances should the applicant allow unhealthy or dead material to remain in place for more than six (6) consecutive months. Failure to maintain the required evergreen vegetative buffer as required by this section shall constitute a violation of this Ordinance and sufficient grounds for revocation of any special use permit previously granted.
 - iii.** All plant materials shall be installed between March 15 and November 15. If the applicant requests a final certificate of occupancy from the Township and the applicant is unable to plant during the installation period, the applicant will provide the Township with a letter of credit, surety or corporate guarantee for an amount equal to one and a half (1.5) times the cost of any planting deficiencies that the Township shall hold until the next planting season. After all plantings have occurred, the Township shall return the financial guarantee.
- k. Signage:** No lettering, company insignia, advertising, graphics or other commercially-oriented inscriptions or designs shall be on any part of the Solar Arrays or other components of the Large Solar Energy System. This section does not prohibit signs reasonably necessary to inform the public of potential safety hazards associated with the Large Solar Energy System, nor does it prohibit any

other signs that may be required by this Ordinance, the special use permit or other applicable law.

- l.** Noise: No component of any Large Solar Energy System shall emit noise exceeding fifty (50) dBA as measured at the outside perimeter of the project.
- m.** Lighting: All lighting for parking lots, driveways, external illumination of buildings, or the illumination of signs shall be directed away from and be shielded from adjacent properties and shall be so arranged as to not adversely affect driver visibility on adjacent public roads.
- n.** Glare: All solar panels shall be placed such that concentrated solar glare shall not be directed onto nearby properties or roadways.
- o.** Distribution, Transmission and Interconnection: All collection lines and interconnections from the Solar Array(s) to any electrical substations shall be located and maintained underground inside the Large Solar Energy System. The Planning Commission may waive this requirement, or modify it with appropriate conditions, if it determines that it would be impractical or unreasonably expensive to install, place or maintain such collection lines and interconnections underground.
- p.** Abandonment and Decommissioning: Following the operational life of the project, or at the time the project becomes obsolete, uneconomic or an Abandoned Solar Energy System, as determined by the Township Engineer or any other expert or specialist to be designated by the Township to make such a determination, the applicant shall perform decommissioning and removal of the Large Solar Energy System and all its components. The applicant shall prepare a decommissioning plan and submit it to the Planning Commission for review prior to issuance of the special use permit. Under this plan, all structures and facilities shall be removed, including any structures below-grade, and removed offsite for disposal. No concrete, piping and other materials may be left in place. Any Solar Array or combination of Photovoltaic Devices that become an Abandoned Solar Energy System shall be removed under the decommissioning plan. The ground must be restored to its original condition within one hundred and eighty days (180) days of becoming an Abandoned Solar Energy System, or decommissioning, whichever occurs first.
- q.** General Standards: The Planning Commission shall not recommend for approval any Large Solar Energy System special use permit unless it finds that all of the applicable standards for special use permit contained in this Ordinance are met.
- r.** Safety: The Planning Commission shall not recommend for approval any Large Solar Energy System special use permit if it finds the Large Solar Energy System will pose an Unreasonable Safety Hazard to the occupants of any surrounding properties or area wildlife.
- s.** Conditions and Modifications: Any conditions and modifications approved by the Planning Commission shall be recorded in the Planning Commission's meeting minutes. The Planning Commission may, in addition to other reasonable conditions, require landscaping, walls, fences and other improvements that are reasonable in relation to and consistent with the nature of the applicable or adjacent

zoning districts. After approval, at least two (2) copies of the final approved Site Plan shall be signed and dated by the Township Supervisor and authorized representative of the applicant. One copy shall be kept on file by the Township Clerk, and one copy shall be returned to the applicant's authorized representative.

- t. Inspection: The Township shall have the right at any reasonable time to inspect the premises on which any Large Solar Energy System is located. The Township may hire one or more consultants to assist with any such inspections, at the applicant's or project owner's expense.
- u. Maintenance and Repair: Each Large Solar Energy System must be kept and maintained in good repair and condition at all times. If the Township Zoning Administrator determines that a Large Solar Energy System fails at any time to meet the requirements of this Ordinance and the special use permit, or that it poses a potential Unreasonable Safety Hazard, the applicant shall shut down the Large Solar Energy System within forty-eight (48) hours after notice by the Zoning Administrator and not operate, start or restart the Large Solar Energy System until the condition has been corrected. Applicant shall keep a maintenance log on the Solar Array(s), which shall be available for the Township's review on a monthly basis. Applicant shall keep all sites within the Large Solar Energy System neat, clean and free of refuse, waste or unsightly, hazardous or unsanitary conditions.
- v. Roads: Any material damages to a public road located within the Township resulting from the construction, maintenance or operation of a Large Solar Energy System shall be repaired at the applicant's expense. In addition, the applicant shall submit to either the Gratiot County Road Commission or MDOT (as appropriate) a description of the routes to be used by construction and delivery vehicles; any road improvements that will be necessary to accommodate construction vehicles, equipment or other deliveries; and a performance guarantee acceptable to the appropriate agency in an amount necessary to assure repair of any damage to the public roads caused by construction of the Large Solar Energy System or any of its elements.
- w. Continuing Security and Escrow: If any Large Solar Energy System is approved for construction under this Section, applicant shall be required to post continuing security and a continuing escrow deposit prior to commencement of construction, which shall remain in effect until the Large Solar Energy System has been finally removed, as provided below:
 - i. Continuing Restoration Security: If a special use permit is approved pursuant to this section, the Planning Commission shall require security in the form of a cash deposit, letter of credit, or surety bond acceptable to the Township, which will be furnished by the applicant to the Township in order to ensure full compliance with this section and all conditions of approval. When determining the amount of each required security, the Township may also require an annual escalator or increase based on the Consumer Price Index (or its equivalent or successor). Such financial guarantee shall be deposited or filed with the Township Clerk after a special use permit has been approved but before construction commences on the Large Solar

Energy System. At a minimum, the financial security shall be in an amount determined by the Township to be reasonably sufficient to restore the property to its previous condition prior to construction and operation of the Large Solar Energy System. Such financial security shall be kept in full force and effect during the entire time that the Large Solar Energy System exists or is in place, and such financial security shall be irrevocable and non-cancelable. In addition, the party operating a Large Solar Energy System approved by the Township shall inform the Township in the event that System, or a material portion of that system is sold to a third party, and any such sale shall require the purchasing party to provide the Township with the security described by this section, along with relevant contact information.

- ii. Continuing Compliance and Enforcement Escrow Deposit: A continuing escrow deposit shall be held by the Township and shall be funded by a cash deposit, letter of credit, or surety bond by the applicant prior to the commencement of construction of any Large Solar Energy System and shall be maintained by the owner or operator until the Large Solar Energy System has been permanently decommissioned and removed. The monetary amount placed by the applicant in escrow with the Township shall be estimated by the Township to cover all reasonable costs and expenses associated with continuing enforcement of this Ordinance and the terms of the special use permit, which costs can include, but are not limited to, reasonable fees for the Township Attorney, Township Planner and Township Engineer, as well as costs for any reports or studies that the Township determines are reasonably related to enforcement of the Ordinance and the special use permit. If the Township is required to expend any portion of the escrow deposit or if the existing escrow amount paid by the applicant proves to be insufficient to cover the Township's enforcement costs, the Township may require the applicant to place additional monies into escrow with the Township.
- iii. Continuing Obligations: Failure to keep any required financial security and escrow deposit in full force and effect at all times while a Large Solar Energy System exists or is in place shall constitute a material and significant violation of the special use permit and this Ordinance, and will subject the Large Solar Energy System applicant, owner and operator to all remedies available to the Township, including enforcement action and revocation of the special use permit. A review of security and escrow requirements shall occur no less than annually to determine compliance with this section.
- x. Conditions: In addition to the requirements of this Section, the Planning Commission may impose additional reasonable conditions on the approval of a Large Solar Energy System as a special land use.
- y. Completion of Construction: The construction of any Large Solar Energy System must commence within a period of one (1) year from the date a special use permit is granted, and must be completed within a period of three (3) consecutive years from the date a special use permit is granted. The Planning Commission may grant

an extension not to exceed one (1) year, provided the applicant requests the extension prior to the date of the expiration of the special land use approval. Failure to complete construction within the permitted time period shall result in the approved special use permit being rendered null and void.

- z.** Quarterly Reports: The owner or operator of a Large Solar Energy System shall provide the Zoning Administrator with quarterly reports on trends and usage of that System as set by the Planning Commission. If this information is considered a confidential trade secret, the Township, upon written request from an energy provider, will keep such information confidential to the extent and through the means authorized by Public Act 442 of 1976.
- aa.** Transfer of Ownership/Operation: Prior to a change in the ownership or operation a Large Solar Energy System, including, but not limited to, by the sale or lease of that System or the underlying property, the current owner or operator shall provide written notice to the Township at least sixty (60) days prior to that change becoming effective. This notice shall inform the Township of the intended transfer of control of the Large Solar Energy System and shall include a copy of the instrument or agreement effecting that transfer. Such an instrument or agreement shall include an express statement that the new owner or operator of the Large Solar Energy System shall not be permitted to operate that System until compliance with the terms of this Ordinance, including requirements for continuing security and escrow funds, has been established

S. TELECOMMUNICATION TOWERS AND ANTENNAS

- 1.** Purpose: The purpose of this Section is to establish guidelines for the siting of telecommunications towers and antennas. The goals of this section are as follows:
 - a.** To protect the residents and lands of Bethany Township from the adverse effects of towers and antennas and to avoid potential damage to adjacent properties from tower failure through proper engineering and careful siting of tower structures;
 - b.** To require users of towers and antennas to locate them, to the extent possible, in areas where the adverse effects upon the community are minimal;
 - c.** To require users of towers and antennas to configure them in a way that minimizes the adverse visual impact of the towers and antennas through design, siting, landscape screening, and camouflage techniques;
 - d.** To minimize the required number of towers throughout the community by a rationalized method of siting;
 - e.** To require the joint use of new and existing towers sites as the standard rather than the construction of single-use towers; and
 - f.** To enhance the ability of the providers of telecommunication services to provide such services to the community effectively and efficiently.

2. Applicability.

- a.** New towers and antennas. All new towers or antennas, or modifications of existing towers or antennas, in Bethany Township shall be subject to these regulations, except as provided below.
- b.** AM array. An AM array, consisting of one or more tower units and supporting ground system which functions as on AM broadcasting antenna, shall be considered one tower. Measurement for setbacks and separation distances shall be measured from the outer perimeter of the towers included in the AM array. Additional tower units may be added within the perimeter of the AM array.
- c.** Receive-Only Antennas and Related Structures. The following requirements shall apply to any tower, antenna, or other structures similar in size, shape and function, which is under seventy (70) feet in height and is owned and operated by a federally licensed amateur radio station operation or that is used exclusively for receiving signals.
 - i.** Antennas, satellite dishes, and similar structures shall be located no closer than the height of the tower to any lot line, and in no instances shall such structures maintain a setback of less than six (6) feet from any side or rear lot lines.
 - ii.** Towers, satellite dishes, antennas, and similar structures shall not be placed or constructed in any required front yard
 - iii.** Satellite dishes may be placed or mounted on poles; however, they shall be subject to accessory building height limitations.
- d.** General requirements.
 - i.** Principal or accessory use. Antennas and towers may be considered either principal or accessory uses. A different existing use of an existing structure on the same lot shall not preclude the installation of an antenna or tower on such lot.
 - ii.** Lot size. For purposes of determining whether the installation of a tower or antenna complies with district development regulations, including but not limited to setback requirements, lot coverage requirements, and other such requirements, the dimensions of the entire lot shall control, even though the antennas or towers may be located on leased parcels within such lot.
 - iii.** Tower height. No tower shall be higher than one hundred and ninety-nine (199) feet unless an applicant can demonstrate that such a restriction is commercially unreasonable based upon the industry standard height.
 - iv.** Inventory of existing sites. Each applicant for an antenna and/or tower shall provide an inventory of any existing towers, antennas, or sites approved for towers or antennas, that are either within the jurisdiction of Bethany

Township or within one mile of the border thereof, including specific information about the location, height, and design of each tower.

v. Aesthetics. Towers and antennas shall meet the following requirements:

- 1.** Finish and color of towers. At the discretion of the Township, towers shall either be painted a neutral color so as to reduce visual obtrusiveness or maintain a galvanized steel finish subject to any applicable standards of the FAA.
- 2.** Blend with setting. At a tower site, the design of the buildings and related structures shall use materials, colors, textures, screening, and landscaping that will blend with the natural setting and surrounding buildings.
- 3.** Color of antenna. If an antenna is installed on a structure other than a tower, the antenna and supporting electrical and mechanical equipment must be of a neutral color that is compatible with the color of the supporting structure so as to make the antenna and related equipment as visually unobtrusive as possible.
- 4.** Lighting. Towers shall not be artificially lighted unless required by the FAA or other applicable authority. If lighting is required, the lighting and design chosen must cause the least disturbance to the surrounding views.
- 5.** Landscaping. Trees, shrubs, and other plants shall be installed to screen the tower and its appurtenant structures and equipment from public view. Plantings shall be done at the borders of a tower site, along its frontage, and in any direction existing vegetation does not screen the tower structure, guys, anchor structures, or equipment enclosures. Existing mature trees and shrubbery and the natural landscape shall be preserved to the maximum extent possible and may be used to achieve this standard.

vi. State or federal requirements. All towers must meet or exceed current standards and regulations of the FAA, the FCC, and any other agency of the state or federal government with the authority to regulate towers and antennas. If such standards and regulations are changed, then the owners of the towers and antennas governed by this Section shall bring such towers and antennas into compliance with such revised standards and regulations within six (6) months of the effective date of such standards and regulations, unless a different compliance schedule is mandated by the controlling state or federal agency. Failure to bring towers and antennas into compliance with such revised standards and regulations shall constitute grounds for the removal of the tower or antenna at the owner's expense.

vii. Building codes and safety standards. To guarantee the structural integrity of towers, the owner of a tower shall ensure that it is maintained in compliance with standards contained in applicable state or local building codes and the

applicable standards for towers that are published by the Electronic Industries Association, as amended from time to time. If, upon inspection, Bethany Township concludes that a tower fails to comply with such codes and standards and constitutes a danger to persons or property, then upon notice being provided to the owner of the tower, the owner shall have thirty (30) days to bring such tower into compliance with such standards. Failure to bring such tower into compliance within thirty (30) days shall constitute grounds for the removal of the tower or antenna at the owner's expense. Buildings and support equipment associated with antennas or towers shall comply with the requirements of this Section.

- viii.** Measurement. For purposes of measurement, tower setbacks and separation distances shall be calculated and applied to facilities located in Bethany Township irrespective of municipal and county jurisdictional boundaries.
- ix.** Not Essential Services. Towers and antennas shall be regulated and permitted pursuant to this Section and shall not be regulated or permitted as essential services, public utilities, or private utilities.
- x.** Franchises. Owners and/or operators of towers or antennas shall certify that all franchises required by law for the construction and/or operation of a wireless communication system in Bethany Township have been obtained and shall file a copy of all required franchises with the Zoning Administrator.
- xi.** Public Notice. For purposes of this Section, any special use request, variance request, or appeal of an administratively approved use or special use shall require public notice to all abutting property owners as required by the Michigan Zoning Enabling Act, MCL 125.3101 *et seq.*
- xii.** Signs. No signs shall be allowed on an antenna or tower except as may be required by law or governmental regulation.
- e.** Permitted uses. Antennas located on a previously approved tower may be authorized by the Zoning Administrator and need not be submitted to the Planning Commission for approval upon submission of structural calculations certified and sealed by a licensed structural engineer certifying that the previously approved tower can support the additional antenna(s).
- f.** Administratively approved uses.

 - i.** Approval by Zoning Administrator. The Zoning Administrator may administratively approve the uses listed in this Subsection.
 - ii.** Application and fee. Each applicant for administrative approval shall apply to the Zoning Administrator, providing the information set forth in Subsection 3 of this section and a nonrefundable fee as established from time to time by the resolution of the Township Board to reimburse Bethany Township for the costs of reviewing the application. In addition, the Township may collect estimated charges for review of the application by an expert retained by the Township for this purpose. Any unused portion shall

be returned to the applicant; any costs in addition shall be paid by the applicant to the Township before a permit may be issued.

- iii.** Review by the Zoning Administrator. The Zoning Administrator, and the Township expert if deemed appropriate, shall review the application for administrative approval and determine if the proposed use complies with Subsections 2(d) and (3) of this section.
- iv.** Reconstruction of an existing tower. In connection with any such administrative approval, the Zoning Administrator may, in order to encourage the use of monopoles, administratively allow the reconstruction of an existing tower to monopole construction.
- v.** Prior to appeal upon denial. If an administrative approval is denied, the applicant shall file an application for a special use permit pursuant to Subsection 4 of this section prior to filing any other appeal that may be available under this Ordinance.
- vi.** List of administratively approved uses. The uses listed below may be approved by the Zoning Administrator after conducting an administrative review.
 - 1.** Antennas on existing structures. Any antenna which is not attached to a tower may be approved by the Zoning Administrator as an accessory use to any commercial, manufacturing, professional, institutional, or multifamily structure of eight or more dwelling units, provided that the antenna:
 - a.** Does not extend more than thirty (30) feet above the highest point of the structure;
 - b.** Complies with all applicable FCC and FAA regulations;
 - c.** Complies with all applicable building codes; and
 - d.** Meets all other conditions of this section.
 - 2.** Antennas on existing towers. Any antenna which is attached to an existing tower may be approved by the Zoning Administrator, and to minimize adverse visual and physical impacts associated with the proliferation of towers, collocation of antennas by more than one carrier on existing towers shall take precedence over the construction of new towers, provided that such collocation is accomplished in a manner consistent with the following:
 - a.** A tower which is modified or reconstructed to accommodate the collocation of an additional antenna shall be of the same tower type and trim as the existing tower, unless the Zoning Administrator allows reconstruction as a monopole.

- b.** Existing towers may be modified to accommodate collocation of an additional antenna. Such a modification may include construction to increase an existing tower's height by up to thirty (30) feet, but not beyond a maximum height of one hundred and ninety-nine (199) feet. Such construction may occur only once per tower without a special use permit. The tower's pre-modification height shall continue to be used to calculate such distance separations.
- c.** A tower which is being rebuilt to accommodate the collocation of an additional antenna may be moved on site within fifty (50) feet of its existing location. After the tower is rebuilt to accommodate collocation, only one tower may remain on the site.
- d.** A relocated on-site tower shall continue to be measured from the original tower location for purpose of calculating separation distances between towers.
- e.** No relocated tower shall be placed within the separation distance to residential units or residentially zoned lands.

3. Special use permits.

- a.** General. The following provisions shall govern the issuance of special use permits for towers or antennas by the Planning Commission:
 - i.** If the tower or antenna is not a permitted use under Subsection 3(e) of this Section or permitted to be approved administratively pursuant to Subsection (2)(f), then a special use permit shall be required for the construction of a tower or the placement of an antenna in all zoning districts.
 - ii.** Applications for special use permits shall include a detailed site plan as required by this Ordinance.
 - iii.** Any information of an engineering nature that the applicant submits, whether civil, mechanical, or electrical, shall be certified by a licensed professional engineer.
 - iv.** An applicant for a special use permit shall submit the information described in Subsection 4(a)(v)(1) and a nonrefundable fee as established by resolution of the Board to reimburse it for the costs of reviewing the application.
 - v.** Information required. In addition to any information required for applications for special use permits generally, applicants for a special use permit for a tower shall submit the following information:
 - 1.** A scaled site plan clearly indicating:

- a. The location, type and height of the proposed tower;
 - b. Master Plan classification of the site, adjoining sites, and all properties within the applicable separation distances set forth in Subsection 4;
 - c. Adjacent roadways and rights-of-way, including the proposed means of accessing the site;
 - d. Setbacks from property lines;
 - e. Elevation drawings of the proposed tower and any other proposed structures;
 - f. Site Topography;
 - g. Parking, both temporary and permanent;
 - h. Any other information deemed by the Zoning Administrator or the Planning Commission to be necessary to assess compliance with this section.
2. The setback distance between the proposed tower and residentially zoned properties and the nearest residential unit.
 3. The separation distance from other towers described in the inventory of existing sites submitted pursuant to Subsection 2(d) shall be shown on the site plan. The applicant shall also identify the type of construction of the existing tower(s) and the owner/operator of the existing tower(s), if known.
 4. A landscape plan showing existing site vegetation to be preserved, along with a detailed landscape plan indicated vegetation to be added and which specifies species, height, size, and planting methods.
 5. Method of fencing, tower finish color and, if applicable, the method of camouflage and illumination.
 6. A description of compliance with Subsections 2(d) and 3 and all applicable federal, state or local laws.
 7. A notarized statement by the applicant as to whether construction of the tower will accommodate collocation of additional antennas for future users.
 8. Identification of the entities providing the backhaul network for the tower(s) described in the application and other cellular sites owned or operated by the applicant in the municipality.

9. A description of the suitability of the use of existing towers, other structures or alternative technology not requiring the use of towers or structures to provide the service to be provided through the use of the proposed new tower.
 10. A description of the feasible location(s) of future towers or antennas within Bethany Township based upon existing physical, engineering, technological or geographical limitations in the event the proposed tower is erected.
- vi. Considerations in granting a special use permit for a tower. In addition to any standards for consideration of special use permit applications generally, the Planning Commission shall consider the following factors in determining whether to issue a special use permit for a telecommunication tower or antenna. The Planning Commission may waive or reduce the requirements of one or more of these criteria if the Planning Commission concludes that the goals of this section are better served thereby.
1. Height of the proposed tower;
 2. Proximity of the tower to residential structures and residential district boundaries;
 3. Nature of uses of adjacent and nearby properties;
 4. Surrounding topography;
 5. Surrounding tree coverage and foliage;
 6. Design of the tower, with particular reference to those characteristics that have the effect of reducing or eliminating visual obtrusiveness;
 7. Proposed ingress and egress to the tower location; and
 8. Availability of suitable existing towers, other structures, or alternative technologies not requiring the use of towers or structures, as discussed below.
- vii. Availability of suitable existing towers, other structures, or alternative technology. No new tower shall be permitted unless the applicant demonstrates to the satisfaction of the Planning Commission that no existing tower, structure or alternative technology that does not require the use of towers or structures can accommodate the applicant's proposed antenna(s). An applicant shall submit information requested by the Planning Commission relevant to the availability of suitable existing towers, other structures or alternative technology. Evidence submitted to demonstrate that no existing tower, structure or alternative technology can accommodate the applicant's proposed antenna shall consist of any of the following:

1. No existing towers or structures are located within the geographic area which meet the applicant's engineering requirements.
 2. Existing towers or structures are not of sufficient height to meet the applicant's engineering requirements.
 3. Existing towers or structures do not have sufficient structural strength to support the applicant's proposed antenna and related equipment.
 4. The applicant's proposed antenna would cause electromagnetic interference with the antenna on the existing towers or structures, or the antenna on the existing towers or structures would cause interference with the applicant's proposed antenna.
 5. The fees, costs, or contractual provisions required by the owner in order to share an existing tower or structure or to adapt an existing tower or structure for sharing are unreasonable. Costs exceeding new tower development are presumed to be unreasonable.
 6. The applicant demonstrates that there are other limiting factors that render existing towers and structures unsuitable.
 7. The applicant demonstrates that an alternative technology that does not require the use of towers or structures, such as a cable microcell network using multiple low-powered transmitters/receivers attached to a wireline system, is unsuitable. Costs of alternative technology that exceed new tower or antenna development shall not be presumed to render the technology unsuitable.
- viii.** Setbacks. The following setback requirements shall apply to all towers for which a special use permit is required. The Planning Commission may reduce the standard setback requirement if the goals of this Section would be better served thereby.
1. All towers must be set back a distance equal to the height of the tower from any adjoining lot line.
 2. Guys and accessory buildings must satisfy the minimum zoning district setback requirements.
- ix.** Separation. The separation requirements set forth shall apply to all towers and antennas for which a special use permit is required; however, the Planning Commission may reduce the standard separation requirements if the goals of this section would be better served thereby.
- x.** Separation from off-site uses and designated areas.

1. Tower separation shall be measured from the base of the tower to the lot line of the off-site uses and/or designated areas as specified in Table 1, except as otherwise provided in Table 1.

| Table 1 | |
|---|--|
| Any residential structure | 500 feet or 300% height of tower, whichever is greater |
| Residentially-zoned districts | 1,500 feet. |
| Any nonresidential structure not associated with the operation of the tower | Height of tower plus 10% |
| Non-residentially zoned lands | None; only setbacks apply |

2. Separation distances between towers. Separation distances between towers shall be applicable for and measured between the proposed tower and preexisting towers. The separation distances shall be measured by drawing or following a straight line between the base of the existing tower and the proposed base, pursuant to the site plan of the proposed tower. The separations distances shall be as shown in Table 2.

| Table 2 | | | | |
|---|---------------------------|-------------------------|--|---|
| | Lattice (feet) | Guyed (feet) | Monopole Greater than 75 feet in Height | Monopole Less than 75 feet in Height |
| Lattice | 5,000 | 5,000 | 1,500 | 750 |
| Guyed | 5,000 | 5,000 | 1,500 | 750 |
| Monopole Greater than 75 feet in Height | 1,500 | 1,500 | 1,500 | 750 |
| Monopole Less than 75 feet in Height | 750 | 750 | 750 | 750 |

- xi.** Security fencing. Towers and guy anchor areas shall be enclosed by security fencing not less than six (6) feet in height and shall also be equipped with an appropriate anti-climbing device.
- xii.** Landscaping. The following requirements shall govern the landscaping surrounding towers for which a special use permit is required.
 - 1.** Tower facilities shall be landscaped with a greenbelt of plant materials that effectively screens the view of the tower compound from property used for residences. The standard greenbelt shall consist of a landscaped strip at least 4 feet wide around the perimeter of the compound, but any effective method may be proposed.
 - 2.** Existing mature tree growth and natural landforms on the site shall be preserved to the maximum extent possible. In some cases, such as towers sited on large, wooded lots, natural growth around the property perimeter may provide a sufficient greenbelt and no additional landscaping would be required.
- xiii.** Bond for removal. The Township may require a bond equivalent to the cost of removing an antenna or tower to ensure removal of any abandoned or unused tower or antenna.

b. Building and other equipment storage.

- i.** Antennas mounted on structures on rooftops. The equipment cabinet or structure used in association with antennas shall comply with the following:
 - 1.** The cabinet or structure shall not contain more than two hundred (200) square feet of gross floor area or be more than thirteen (13) feet in height. If the related unmanned equipment structure is over two hundred (200) square feet of gross floor area or thirteen (13) feet in height, it shall be located on the ground and shall not be located on the roof of the structure.
 - 2.** If the equipment structure is located on the roof of a building, the area of the equipment structure and other equipment and structures shall not occupy more than 25% of the roof area.
 - 3.** Equipment storage buildings or cabinets shall comply with all applicable building codes.
- ii.** Antennas mounted on utility poles or light poles/towers. The equipment cabinet or structure used in association with antennas shall be located in accordance with regulations below for residential districts.
- iii.** Equipment structures shall be constructed of and appear similar in appearance to buildings in the surrounding neighborhood.

- iv. Residential districts. In residential districts, the equipment cabinet or structure may be located:
 - 1. In a front or side yard, provided that the cabinet or structure is no greater than thirteen (13) feet in height or two hundred (200) square feet in gross floor area and the cabinet/structure is located a minimum of twenty-five (25) feet from all lot lines. The cabinet/structure shall be screened by an evergreen hedge with an ultimate height of at least forty-eight (48) inches and a planted height of at least thirty-six (36) inches, planted no more than four (4) feet on center.
 - 2. In a rear yard, provided that the cabinet or structure is no greater than thirteen (13) feet in height or five hundred (500) square feet in gross floor area. The cabinet/structure shall be screened by an evergreen hedge with an ultimate height of at least eight (8) feet and a planted height of at least thirty-six (36) inches and installed no more than four (4) feet on center.
- v. Business or Industrial District. In the Business and Industrial Districts, the equipment cabinet or structure shall be no greater than twenty (20) feet in height or five hundred (500) square feet in gross floor area. The structure or cabinet shall be screened by an evergreen hedge with an ultimate height of eight (8) feet and a planted height of at least thirty-six (36) inches. In all other instances, structures or cabinets shall be screened from view of all residential properties which abut or are directly across the street from the structure or cabinet by a solid fence eight (8) feet in height or an evergreen hedge with an ultimate height of eight (8) feet and a planted height of at least thirty-six (36) inches and shall be constructed of similar materials as buildings in the neighborhood.
- vi. Modification of building size requirements. The requirements of this Subsection may be modified to encourage collocation by the Zoning Administrator in the case of administratively approved uses or by the Planning Commission in the case of uses permitted by special use in exceptional cases only.
- c. Removal of abandoned antennas and towers. Any antenna or tower that is not operated for a continuous period of twelve (12) months shall be considered abandoned, and the owner of such antenna or tower shall remove the same within ninety (90) days of notice from the Township. Failure to remove an abandoned antenna or tower within said ninety (90) days shall be grounds for the Township to remove the tower or antenna at the owner's expense.
- d. Nonconforming uses.
 - i. Expansion of nonconforming use. Towers that are changed or antennas that are installed in accordance with the provisions of this section shall not be deemed to constitute the expansion of a nonconforming use or structure.

- ii. Preexisting towers. Preexisting towers shall be allowed to continue their present usage. Routine maintenance, including replacement with a new tower of like construction and height, shall be permitted on such preexisting towers. New construction other than routine maintenance on a preexisting tower shall comply with the requirements of this section.
- e. Rebuilding damaged or destroyed nonconforming towers or antennas. Nonconforming towers or antennas that are damaged or destroyed may be rebuilt without having to first obtain administrative approval or a special use permit, but the type, height, and location of the tower on site shall be of the same type and trim as the original structure's approval unless an allowed change is authorized by the Zoning Administrator or the Planning Commission as appropriate. Building permits to rebuild the facility shall comply with the then applicable building codes and shall be obtained within one hundred and eighty (180) days from the date the facility is damaged or destroyed. If no permit is obtained or if said permit expires, the tower or antenna shall be deemed abandoned as specified above.

T. TEMPORARY DWELLINGS

- 1. Trailers and mobile homes may be used as a temporary dwelling in the Single-Family Residential District subject to the following requirements:
 - a. Temporary dwellings shall only be permitted during the construction of a single-family dwelling on the property.
 - b. A special use permit for a temporary dwelling shall be valid for a period of six (6) months and may be renewed once. Before the permit may be renewed, the applicant must provide proof that construction has progressed on the single-family dwelling.
 - c. If construction does not commence within six (6) months, the special use permit shall not be renewed.
 - d. A special use permit for a temporary dwelling is no longer effective and a temporary dwelling unit shall no longer be used as a dwelling if either of the following occur:
 - i. Construction does not commence within six (6) months of the issuance of the special use permit.
 - ii. The special use permit expires, and the applicant fails to renew the permit.
 - iii. Construction is not complete within twelve (12) months of the issuance of the special use permit.
 - iv. The single-family dwelling on the property is granted an occupancy permit.
 - e. Upon expiration of a special use permit for a temporary dwelling, any trailer or mobile home must be removed from the property within thirty (30) days.

U. TWO-FAMILY AND MULTI-FAMILY DWELLINGS

1. Two-family and multi-family dwellings shall be subject to the following requirements:
 - a. Multi-family dwellings shall contain no more than six (6) dwelling units.
 - b. The use must not be injurious to neighboring properties.
 - c. Adequate off-street parking must be provided.
 - d. Sight distances and traffic flow on adjacent streets shall not be impaired.
 - e. Where there are no public water or sewer services minimum land requirements shall be as follows:
 - i. Minimum lot frontage shall be two hundred (200) feet.
 - ii. Minimum lot area shall be fifty thousand (50,000) square feet for dwellings containing two (2) dwelling units, with an additional ten thousand (10,000) square feet require for each additional dwelling unit.

V. WIND ENERGY CONVERSION SYSTEM (WECS)

1. **Purpose:** The purpose of this Section is to establish standards for the siting, installation, operation, and removal or repair of Wind Parks within the Township as a special use.
2. **Application Materials**
 - a. **Application; Signatures:** The application for special use for a Wind Park shall be submitted on a form prepared for that purpose by the Township, shall include company contact information (telephone numbers and email addresses), key company contacts with titles, EIN, a narrative describing the proposed Wind energy Facility with an overview of the project, anticipated construction date and completion date, proposed transportation plan to be used by construction and delivery vehicles, and shall demonstrate the support in writing of each and every legal and equitable owner of each lot or parcel within the Township that is located in whole or in part within the Wind Park. If any owners of property within the Township that is proposed to be within the Wind Park do not support the application, the application shall identify those owners by name, address and telephone number, and a copy of the last offer the applicant made to that owner. If no offer was made to the owner, a copy of any and all communications between the applicant and the owner shall be submitted to the Planning Commission. The Planning Commission shall investigate the basis for each owner's objections. The record of the investigation shall be made a part of the record in the consideration of the special use proceedings and the Planning Commission shall give due consideration to the basis for the objections in determining whether to permit any properties to be excluded from the Wind Park.

- b. Submission Requirements:** The applicant shall submit twelve (12) copies of the application and all supporting materials to the Township Zoning Administrator. The Zoning Administrator will cause the application to be placed on the Planning Commission's next regular meeting agenda.

- c. Site Plan Drawing and Supporting Materials:** All applications for a Wind Park special use must be accompanied by a detailed Site Plan, drawn to scale and dimensioned, and certified by a registered engineer licensed in the State of Michigan, displaying the following information.
 - i.** All requirements for a site plan contained in this Ordinance.
 - ii.** All lot lines and dimensions, including a legal description of each lot or parcel within the Wind Park.
 - iii.** Names of owners of each lot or parcel within the Township that is proposed to be within the Wind Park.
 - iv.** Details or drawings showing features in the design of a typical tower and its base that upon removal will allow restoration pursuant to this ordinance.
 - v.** Location and height of all proposed buildings, structures, electrical lines, towers, guy wires, guy wire anchors, security fencing, and all above ground structures associated with each WECS.
 - vi.** Location and height of all buildings, structures, and above ground utilities located or proposed within the Wind Park.
 - vii.** Specific distances to all onsite buildings, structures, and utilities shall be provided.
 - viii.** Location of all existing and proposed overhead and underground electrical transmission or distribution lines within the Wind Park, as well as within one thousand (1,000) feet of the outside perimeter of the Wind Park.
 - ix.** Proposed setbacks between each WECS and from each WECS to all existing and proposed structures within the Wind Park.
 - x.** Land elevations at each proposed WECS location and its relationship to the land elevations of all existing and proposed structures within the Wind Park.
 - xi.** Access driveways to each WECS, together with a detailed narrative regarding dimensions, composition, and maintenance of each proposed driveway. All access driveways shall be subject to Gratiot County Road Commission approval, and the use of the drives shall be planned so as to minimize the use of lands for that purpose.

- xii. The location of all farmland within the Wind Park that is designated for preservation, a written description of the plan for preservation of farmland within the Wind Park, and copies of all easements, restrictive covenants and other documents proposed to be used to achieve that plan.
 - xiii. Planned security measures to prevent unauthorized trespass and access and to warn of potential dangers, during the construction, operation, removal, remodeling or repair of the WECS.
 - xiv. A written description of the maintenance program to be used to maintain each WECS, including removal when determined to be obsolete or abandoned. The description shall include maintenance schedules, the types of maintenance to be performed, and removal procedures and schedules should the WECS become obsolete or abandoned.
 - xv. A copy of the manufacturer's safety measures to prevent uncontrolled rotation or over speeding.
 - xvi. Planned lighting protection measures.
 - xvii. Additional detail(s) and information as required by the special use requirements of the Zoning Ordinance, or as requested by the Planning Commission.
3. Construction Codes, Towers & Interconnection Standards: Each WECS shall comply with all applicable state construction codes, as well as Federal Aviation Administration (FAA) requirements, the Michigan Airport Zoning Act, the Michigan Tall Structures Act, and local jurisdiction airport overlay zone regulations. The tower shaft shall not be illuminated unless required by the FAA. Each WECS shall comply with the applicable utility, Michigan Public Service Commission and Federal Energy Regulatory Commission interconnection standards.
 4. Location: The Wind Energy Facility Overlay District is established as an overlay district. It exists as an overlay district as depicted and designated on the Bethany Township Zoning Map. Land located within the overlay district may be developed according to the provisions of the underlying zoning district or according to the provisions of this Wind Energy Conversion System subsection. A WECS or Wind Park is permitted as a special use within the overlay district. A different existing use or an existing structure on the same parcel shall not preclude the installation of a WECS or part of such facility on such parcel.
 5. Preservation: Property located within the Wind Park that is not designated as an immediate location of any WECS and WECS accessory structures is encouraged to be preserved for its existing uses and purposes through the execution and recording of appropriate easements, restrictive covenants, or other documents approved by the Planning Commission. Although such preservation measures are not required, they will be favorably considered by the Planning Commission in the review of a special use application under this Section.

6. Design Standards:

- a. Height:** The permitted maximum total height of each WECS (i.e., WECS height) shall be five hundred (500) feet including the blade in vertical position.
 - i.** State and federal regulations may require a lesser height.
 - ii.** As a condition of approval, the Township may require a lesser height for WECS if it is determined that it is reasonably necessary.
 - iii.** The Planning Commission may approve a WECS height greater than (430) feet if the applicant clearly demonstrates that such greater height would be in the interest of persons and properties surrounding the Wind Park.
- b. Setbacks:** No part of a WECS (including guy wire anchors) shall be located closer than one thousand (1,000) feet to any habitable structure, any road, or utility. WECS shall not be located within four hundred (400) feet or 150% of the WECS height, whichever is greater, to any non-participating parcel, railroad, or railroad right-of-way used as a recreational trail.
- c. Rotor or Blade Clearance:** Blade arcs created by a WECS shall have a minimum of seventy-five (75) feet of clearance over and from any structure, adjoining property or tree. The minimum blade or rotor clearance above ground level shall be at least seventy-five (75) feet.
- d. Rotor or Blade Safety:** Each WECS shall be equipped with both a manual and automatic braking device capable of stopping the WECS operation in high winds within 80% of design limits of the braking system.
- e. Tower Access:** To prevent unauthorized climbing, WECS must comply with at least one of the following provisions:
 - i.** External tower climbing apparatus shall not be located within twelve (12) feet of the ground.
 - ii.** A locked anti-climb device shall be installed and maintained
 - iii.** A tower capable of being climbed externally shall be enclosed by a locked protective fence at least ten (10) feet high with barbed wire fence.
- f. Signs:** Each WECS shall have one sign, not to exceed two (2) square feet in area, posted at the base of the tower. The sign shall contain at least the following:
 - i.** Warning: High Voltage.
 - ii.** Warning: Falling Ice.
 - iii.** Manufacturer's name.

- iv. Emergency numbers (list more than one number).
 - v. FAA regulated sign with precise description with latitude and longitude and shall also contain both the applicant's current telephone number and the current telephone number for the FAA's regional office having jurisdiction over the Township.
 - vi. If fenced, place signs on the fence.
- g. Lighting: A lighting plan for each WECS shall be approved by the Planning Commission. Such plans must describe all lighting that will be utilized, including any lighting that may be required by the FAA. Such a plan shall include but is not limited to the planned number and location of lights, light color and whether any lights will be flashing. All tower lighting will comply with FAA regulations and guidance and shall be consistent with the USFWS/MDNR guidelines. Except to comply with FAA requirements or other regulations, WECS generally will not be artificially lighted.
- h. Electromagnetic Interference: Each WECS shall be designed; constructed and operated so far as possible so as not to cause radio, television and other wireless signal interference. If electromagnetic interference is experienced by properties outside the Wind Park, and the WECS is determined to cause radio, television or other wireless signal reception to be degraded from the conditions prior to the installation of the Wind Park through the proper utilization by an expert of relevant facts, data and reliable scientific principles and methods, the WECS owner shall provide alternate service to each individual resident or property owner affected. If a property owner or resident is successful in demonstrating degradation of their radio, television or other wireless signal reception caused by a WECS, then the WECS owner shall also reimburse the property owner or resident for their reasonable costs and fees incurred to prove the existence and cause of the degradation.
- i. Noise Emissions: All WECS shall be manufactured and constructed with the best available noise reduction technology available at the time of their construction. Noise emissions from the operation of one or more WECS operating within a Wind Park shall not in any case exceed fifty-five (55) decibels on the dBA scale as measured at any point on the boundary between land within the Wind Park and land outside the Wind Park and not more than fifty-five (55) decibels on the dBA scale as measured at residences outside the Wind Park. A state-of-the-art baseline noise emission study of the proposed site and impact of estimated operating noise levels upon all areas within one (1) mile radius of each proposed WECS location shall be performed (at the applicant's cost) and submitted to the Township with the application for special use.
- j. Distribution; Transmission and Interconnection: All collection lines and interconnections from the WECS to the electrical substation shall be located and maintained underground inside the Wind Park. The Planning Commission may waive the requirement that collection lines and interconnections be located and maintained underground if the Planning Commission determines that it would be

impractical or unreasonably expensive to install, place, or maintain such collection lines and interconnections underground.

- k. Approved Standards: In addition to the other requirements and standards contained in this section, the Planning Commission shall not approve any Wind Park special use unless it finds that all of the following standards are met:
 - i. The general special use standards contained in this Ordinance; and
 - ii. The Wind Park will not pose a safety hazard or unreasonable risk of harm to the occupants of any surrounding properties or area wildlife.
- l. Conditions and Modifications: Any conditions or modifications approved by the Planning Commission shall be recorded in the minutes of the appropriate Planning Commission Meeting. The Planning Commission may, in addition to other reasonable conditions, require landscaping, walls, fences, and other improvements that are reasonable in relation to and consistent with the nature of the district in which the WECS is located. After approval, at least two (2) copies of the final approved Site Plan shall be signed and dated by the Township Supervisor and authorized representative of the Applicant. One copy shall be kept on file by the Township Clerk, and one (1) copy shall be returned to the applicant's authorized representative.
- m. Completion; Testing: The applicant shall complete the Wind Park construction within twelve (12) months after commencement of construction. Applicant shall provide as-built GIS shape file, electronic file, and paper site plan. Within twelve (12) months of completion and commencement of operation, the applicant shall be required to present a report prepared by a third-party qualified professional, demonstrating that the Wind Park while in operation meets the requirements of this Ordinance and the permit for special use with respect to noise emissions and electromagnetic interference, and shadow flicker effect.
- n. Inspection: The Township shall have the right upon issuing any WECS or Wind Park special use permit to inspect the premises on which each WECS is located at any reasonable time. The Township may hire a consultant to assist with any such inspections at the applicant's reasonable cost.
- o. Maintenance and Repair: Each WECS must be kept and maintained in good repair and condition at all times. If the Zoning Administrator determines that a WECS fails at any time to meet the requirements of this Ordinance and the permit for special use with respect to noise emissions, electromagnetic interference, or shadow flicker effect, or that it poses a potential safety hazard, the applicant shall shut down the WECS within forty-eight (48) hours after notice by the Zoning Administrator and not start the WECS until the condition has been corrected. The applicant shall keep a maintenance log on each WECS, which shall be available for the Township's review on a monthly basis. The applicant shall keep all sites within the Wind Park neat, clean and free of refuse, waste or unsightly, hazardous or unsanitary conditions.

- p. Roads: Any material damages to a public road located within the Township resulting from the construction, maintenance, or operation of a WECS shall be repaired at the applicant's expense. In addition, the applicant shall submit to the appropriate County agency a description of the routes to be used by construction and delivery vehicles; any road improvements that will be necessary to accommodate construction vehicles, equipment or other deliveries; and a performance guarantee acceptable to the County in an amount necessary to assure repair of any damage to the public roads caused by construction of the Wind Park or any of its elements.
- q. Complaint Resolution: The applicant shall develop a process to resolve complaints from nearby residents and property owners concerning the construction and operation of the Wind Park. The process may use an independent mediator or arbitrator and shall include a time limit for acting on a complaint. The process shall not preclude the Township from acting on a complaint. During construction and operation the applicant shall maintain a telephone number during business hours where nearby residents and landowners can reach a project representative.
- r. Abandonment: Any WECS that is not used for the production of energy equal to 20% of the energy output described in the site plan for a period of six (6) successive months or longer shall be deemed to be abandoned and shall be promptly dismantled and removed from the property, unless the applicant receives a written extension of that period from the Zoning Administrator in a case involving an extended repair schedule for good cause. All above and below ground materials (down four (4) feet below the ground) must be removed. The ground must be restored to its original condition within one hundred and eighty (180) days of abandonment. The cost of such removal shall be borne solely by the applicant or its successor(s) or assign(s).
- s. Continuing Security and Escrow: If any WECS is approved for construction under this Ordinance, the applicant shall be required to post continuing security and a continuing escrow deposit prior to commencement of construction, which shall remain in effect until the WECS has been finally removed, as provided below:
 - i. *Continuing Security*: If a special use is approved pursuant to this section, the Planning Commission shall require security in the form of a cash deposit, irrevocable letter of credit, corporate bond or surety bond in a form, amount, time and duration deemed acceptable to the Township, which will be furnished by the applicant to the Township in order to ensure full compliance with this section and all conditions of approval. When determining the amount of each required security, the Township may also require an annual escalator or increase based on the Consumer Price Index (or the equivalent or its successor). Such financial guarantee shall be deposited or filed with the Township Clerk after a special use has been approved but before construction commences upon a WECS within the Wind Park. At a minimum, the financial security shall be in an amount determined by the Township to be reasonably sufficient to have each WECS fully removed (and all components properly disposed of and

the land returned to its original state) should such structure or structures become abandoned, dangerous or obsolete, or not in compliance with this ordinance or the special use permit. Such financial security shall be kept in full force and effect during the entire time a WECS exists or is in place, and such financial security shall be irrevocable and non-cancelable (except by the written consent of both the Township and the then-owner of the WECS).

- ii. *Continuing Escrow Deposit:* A continuing escrow deposit to be held by the Township shall be funded in cash by the applicant prior to the commencement of construction of any WECS and shall be maintained by the WECS owner until the WECS has been permanently removed. The monetary amount placed by the applicant in escrow with the Township shall be estimated by the Township to cover all reasonable costs and expenses associated with continuing enforcement of this Ordinance and the terms of the special use permit, which costs can include, but are not limited to, reasonable fees for the Township Attorney, Township Planner and Township Engineer, as well as costs for any reports or studies which the Township anticipates it may have done that are reasonably related to enforcement of the Ordinance and the special use Permit. If the Township is required to expend any portion of the escrow deposit or if the existing escrow amount paid by the applicant proves to be insufficient to cover the Township's enforcement costs, the Township may require the WECS owner to place additional monies into escrow with the Township.
- iii. *Continuing Obligations:* Failure to keep such financial security and escrow deposit in full force and effect at all times while a WECS exists or is in place shall constitute a material and significant violation of a special use and this Ordinance and will subject the WECS owner to all remedies available to the Township, including possible enforcement action and revocation of the special use.
- t. Liability: The applicant shall insure each WECS at all times and shall maintain such insurance on its own behalf and on behalf of the Township as a co-insured, with limits of liability not less than two million (\$2,000,000.00) per occurrence for damages to persons and property (to be adjusted annually to an amount equivalent to 2018 dollars based on CPI).
- u. Color: A WECS shall be painted a non-obtrusive (light environmental color such as beige or gray) color that is non-reflective. The wind turbine base and blades shall be of a color consistent with all other turbines in the area. No lettering, company insignia, advertising, or graphics shall be on any part of the tower, hub, or blades.
- v. Shadow Flicker Effect: All reasonable efforts shall be made not to affect any resident with any shadow flicker effect in the operation of any WECS. Shadow

flicker to any occupied buildings shall occur no more than thirty (30) hours per year.

- w. Vibrations or Wind Currents: Under no circumstances shall a WECS produce vibrations or wind currents humanly perceptible beyond the perimeter of the Wind Park.
- x. Stray Voltage: The applicant shall be responsible for compensation for damages due to any stray voltage caused by a WECS in accordance with the rules of the Michigan Public Service Commission.
- y. Environmental Impact Assessment: At the Township's request, the applicant shall fund an environmental assessment or impact study and/or other relevant report(s) or studies (including, but not limited to, assessing the potential impact on endangered species, eagles, birds, plants, and/or other wildlife) as required by the Township for review by the Township regarding the Wind Park or surrounding areas. Each study or report shall be provided to the Township prior to the time when the Planning Commission makes its final decision regarding the special use permit.
- z. Application Escrow Account: An escrow account shall be funded by the applicant when the applicant applies for a special use permit for a Wind Park. The monetary amount placed by the applicant in escrow with the Township shall be estimated by the Township to cover all reasonable costs and expenses associated with the special use permit review and approval process, which costs can include, but are not limited to, reasonable fees of the Township Attorney, Township Planner and Township Engineer, as well as costs for any reports or studies which the Township anticipates it may have done that are reasonably related to the zoning review process for the particular application. Such escrow amount shall be in addition to any filing or application fees established by resolution. At any point during the special use permit review process, the Township may require that the applicant place additional monies into escrow with the Township should the existing escrow amount filed by the applicant prove insufficient. If the escrow account needs replenishing and the applicant refuses to do so promptly, the special use permit review and approval process shall cease until and unless the applicant makes the required escrow deposit. Any applicable zoning escrow resolutions or other ordinances adopted by the Township shall also be applicable.
- aa. Reasonable conditions: In addition to the requirements of this section, the Planning Commission may impose additional reasonable conditions on the approval of a Wind Park as a special use.
- bb. Other Requirements: Each Wind Park and WECS shall also comply with all applicable federal, state, and county requirements, in addition to other Township Ordinances.
- cc. Single WECS for On-Site Service Only.
 - i. Single WECS applications of wind energy conversion system, including WECS testing facilities, to service the energy needs of only the property where the

structure is located may be approved in any zoning district as a special use, provided the property upon which the WECS is located is at least three and one-half (3-1/2) acres in size, complies with all applicable federal, state, and local laws, rules, and regulations.

- ii.** Single WECS are subject to the special use permit and site plan review and approval procedures and standards/criteria of this Ordinance, as well as the following:
 - a)** The tower shall not exceed one hundred (100) feet.
 - b)** The blade diameter (tip to tip) shall not exceed one hundred (100) feet.
 - c)** The height of the overall WECS (with the blade in vertical position) shall not exceed one hundred and thirty (130) feet above ground level (at a normal grade).
 - d)** The distance of the structure from all property lines shall be at least the height of the tower to the top of the rotor.

ARTICLE 16: ADMINISTRATION AND ENFORCEMENT

SECTION 16.1 ZONING ADMINISTRATOR AS ENFORCING OFFICER

The Zoning Administrator appointed by the Township Board is hereby authorized to direct, supervise, and enforce the provisions of this Ordinance and any requirements, standards or conditions imposed under a special use permit. The Zoning Administrator's duties shall include, among others, the following: investigation of ordinance violations; issuing and serving ordinance violation notices; issuing and serving appearance tickets as authorized by law; issuing and serving municipal ordinance violation notices and municipal civil infraction citations as authorized by law; appearance in court or other ordinance enforcing duties as may be delegated by the Township Board, Township Supervisor or assigned by the Township Attorney.

SECTION 16.2 LAND USE PERMIT REQUIRED

Before any change of use of any building or parcel of land is undertaken, or before an existing structure is removed, replaced, or more than fifty (50) percent of the structure is repaired, the owner, or his or her duly-authorized agent, shall apply to the Zoning Administrator for a land use permit on forms provided by the Township. Once it has been determined by the Zoning Administrator that the proposed building, structure, or use is in conformance with all the provisions of this Ordinance and appropriate fees are paid, a land use permit may be issued. The land use permit shall be nontransferable and shall remain valid for one (1) year from the date of issuance. A land use permit must be obtained prior to the application for a building permit.

SECTION 16.3 APPLICATION FOR LAND USE PERMIT

All applications for land use permits shall be made to the Zoning Administrator with the accompanying fee. The fee shall be set by the Township Board. The application shall be made up of the following:

- A. A site plan drawn to scale showing the name and address of the owner, the intended use, the location and size of the proposed building, structure, or use as it relates to roads and rights-of-way, lot lines, other buildings on the site, existing or proposed sewage disposal facilities, existing or proposed water wells, and lakes, streams, or wetlands.
- B. A statement by the applicant outlining the intended use and purpose for the proposed building, structure, or land in question.

SECTION 16.4 ISSUANCE OF LAND USE PERMIT

Within thirty (30) days of the receipt of the application for land use permit, the Zoning Administrator shall issue a land use permit if it is found that the application is complete and that the proposed building, structure and/or use is in conformance with the requirements of this Ordinance and all required fees are paid. The Zoning Administrator shall keep a record of all permits issued and report these monthly to the Township Board. Land use permits expire six (6) months from the date of issue, unless the use or construction authorized by that permit has begun and is proceeding to completion. Extensions may be granted at no additional cost for additional six (6) month periods, provided there are no changes to the original application.

SECTION 16.5 FAILURE TO OBTAIN PERMIT

The permit fee shall be doubled upon failure to obtain a permit from the Zoning Administrator before beginning construction.

SECTION 16.6 REVOCATION OF LAND USE PERMIT

The Zoning Administrator shall have the power to revoke or cancel any land use permit in case of failure or neglect to comply with any provision of this Ordinance or the requirements, standards or any conditions imposed upon a special use permit, or in the case of false statements or misrepresentation in an application. The revocation or cancellation of the land use permit shall be made in writing, and all construction, uses, or other activities allowed by the permit shall cease.

SECTION 16.7 ENFORCEMENT

- A.** Any building or structure moved, erected, razed, converted, or used and any use of land or premises which is carried on in violation of this Ordinance is declared to be a nuisance per se. All buildings, structures, and land uses considered to be violations of this Ordinance shall be reported to the Zoning Administrator.
- B.** The Zoning Administrator shall inspect all alleged violations of this Ordinance. In the event that a violation is found, the Zoning Administrator shall issue a written order to correct the violation and to otherwise comply with the provisions of this Ordinance.
- C.** After the order to correct has been issued, the violation shall be corrected within fourteen (14) days. If the violation cannot be corrected within fourteen (14) days, an application to extend the correction period may be made to the Township Board. Any violation not corrected shall be reported to the Township Board.
- D.** Any person, firm, or corporation, who violates, disobeys, omits, neglects, or refuses to comply with, or who resists enforcement of any of the provision of this Ordinance is responsible for a municipal civil infraction, subject to payment of a civil fine of up to five hundred dollars (\$500.00), along with the Township's costs and attorney's fees in prosecuting the violation. Each day during which a violation continues shall be deemed a separate offense.
- E.** Any person, firm, or corporation who violates, disobeys, omits, neglects, or refuses to comply with, or who resists enforcement of any of the provisions of this Ordinance is responsible for a misdemeanor, subject to a fine of up to five hundred dollars (\$500.00), or imprisonment for up to ninety (90) days. Each day during which a violation continues shall be deemed a separate offense.
- F.** If the Zoning Administrator discovers that work on any structure or premises is being undertaken contrary to this Ordinance, he or she shall deliver an order to the property owner requiring that such work shall immediately cease. The stop work order shall be posted on the property with a copy mailed or delivered to the owner of the property in question, person occupying the property, and the person doing the work and shall state the conditions under which the work may be resumed. Any person who shall continue any work in or about the structure or premises after having been served with a stop work order, except as

directed by the Zoning Administrator to remove violations or unsafe conditions, shall be found responsible for a violation of this Ordinance.

- G.** The Township Board may bring a suit for an injunction, mandamus, abatement or any other appropriate method to prevent, enjoin, abate, or remove any violations of this Ordinance. The rights and remedies provided herein are cumulative and in addition to all other remedies provided by law.

ARTICLE 17: ZONING BOARD OF APPEALS

SECTION 17.1 AUTHORIZATION

There is hereby established a Zoning Board of Appeals, which shall derive its authority from Public Act 110 of 2006, the Michigan Zoning Enabling Act, as amended, MCL 125.3101 et seq. The Board of Appeals shall ensure that the spirit and intent of this Ordinance are upheld, that the public health, safety, and welfare are advanced, and that substantial justice is done.

SECTION 17.2 MEMBERSHIP AND PROCEDURES

- A.** The Zoning Board of Appeals shall consist of five (5) members. The first member of the Board of Appeals shall be a member of the Township Planning Commission, one member may be a member of the Township Board, and the remaining members shall be selected and appointed by the Township Board from among the electors residing in the unincorporated area of the Township. An elected official of the Township may not serve as Chairman of the Zoning Board of Appeals. An employee or contractor of the Township Board may not serve as a member or employee of the Zoning Board of Appeals. Members of the Board of Appeals shall be removable by the Township Board for nonperformance of duty or misconduct in office upon written charges and after a public hearing.
- B.** The Township Board may appoint not more than two alternate members for the same term as regular members to the Zoning Board of Appeals. An alternate member may be called upon to serve as a regular member of the Zoning Board of Appeals in the absence of a regular member if the regular member is absent from or will be unable to attend one or more consecutive meetings of the Board of Appeals. An alternate member may also be called to serve as a regular member for the purpose of reaching a decision on a case in which the regular member has abstained for reasons of conflict of interest. The alternate member shall serve on the Board of Appeals until a final decision is made. The alternate member shall have the same voting rights as a regular member of the Zoning Board of Appeals.
- C.** Terms of Zoning Board of Appeals members shall be for three (3) years, except for members of the Planning Commission or Township Board, whose terms shall be limited to the time they are members of said bodies and the period stated in the resolution appointing them. A successor shall be appointed not more than one (1) month after the term for the preceding member has expired. All vacancies for unexpired terms shall be filled for the remainder of the term.
- D.** The total amount allowed for the Board of Appeals in one (1) year as per diem or as expenses actually incurred in the discharge of their duties shall not exceed a reasonable sum, which sum shall be appropriated annually in advance by the Township Board.
- E.** The Board of Appeals shall adopt its own rules of procedure as may be necessary to conduct its meetings and carry out its function. The Board shall choose a Chairman and, in the Chairman's absence, an Acting Chair.
- F.** Meetings shall be held at the call of the Chairman and at such other times as the Board in its rules of procedure may specify. A simple majority of the membership of the Board of

Appeals shall constitute a quorum and may conduct any items of business brought before the Board. All meetings of the Board shall be open to the public.

- G.** Minutes of all proceedings shall be recorded and shall contain evidence and dates relevant to every case, the votes of the members, and its final disposition. Such minutes shall be filed in the office of the Township Clerk and become public records.
- H.** The concurring vote of a majority of the members of the Zoning Board of Appeals shall be necessary to reverse any decision of the Planning Commission or Zoning Administrator upon which the Board is required to pass, or to grant any variance of the terms or conditions of this Ordinance.
- I.** The Zoning Board of Appeals shall return a decision upon each case within a reasonable amount of time. All decisions of the Board of Appeals are final, and appeals of Zoning Board of Appeals decisions must be filed with a court of competent jurisdiction within thirty (30) days after the Zoning Board of Appeals issues its decision in writing signed by the chairperson (or the members of the Board if there is no chairperson) or within twenty-one (21) days after the Zoning Board of Appeals approves the minutes of the meeting at which the decision was made.
- J.** A member of the Zoning Board of Appeals shall disqualify him or herself from a vote in which the member has a conflict of interest. Failure of a member to disqualify oneself from a vote in which the member has a conflict of interest shall constitute misconduct.
- K.** The Township Zoning Board of Appeals shall have the power to act on those matters where this Ordinance provides for an administrative review, interpretation, or variance as defined in this Article.

SECTION 17.3 VARIANCES

The Zoning Board of Appeals is authorized to grant, upon application, variances to dimensional requirements, such as lot area and width regulations, yard and depth regulations, and off-street parking and loading space requirements. Any requirement of this Ordinance which is dimensional in nature may be brought before the Zoning Board of Appeals to be considered for a variance. The Zoning Board of Appeals may not grant use variances. The Board may attach any conditions it deems necessary to a variance to ensure that the spirit and intent of this Ordinance is carried out.

- A.** The Zoning Board of Appeals shall ensure that all variances comply with the following:
 - 1.** Will not be contrary to the public interest or to the intent and purpose of this Ordinance;
 - 2.** Will not permit the establishment of a use within a district where it is prohibited;
 - 3.** Will relate only to the property for which the application has been submitted; and
 - 4.** Is not a request that occurs regularly that could be addressed through an amendment to this Ordinance.
- B.** The Zoning Board of Appeals shall not grant a variance unless at least one of the following is demonstrated:

1. Exceptional or extraordinary circumstances such as narrowness, shallowness, shape, or topography of the property involved that generally do not apply to other properties or uses in the same district. Such circumstances or conditions shall not be considered grounds for a variance if they have been caused by the applicant or previous owner after the effective date of this Ordinance.
 2. Practical difficulties which prevent the carrying out of the strict letter of this Ordinance. Difficulties should be evaluated in terms of the use of the parcel or property.
 3. The lot or parcel was lawfully recorded prior to the effective date of this Ordinance or any amendment thereto and the dimensional provisions of this Ordinance prohibit the use of the lot or parcel in accordance with the district regulations.
 4. Variation is necessary for the preservation of a substantial property right possessed by other properties in the same district.
- C. Any variance that is denied shall not be resubmitted for review for a period of one (1) year from the date that the Zoning Board of Appeals last took action on the request unless substantive new evidence is to be presented or new circumstances arise.
- D. No variance that is issued shall be valid for a period of longer than one (1) year, unless construction of the subject structure or modification thereof has commenced and proceeds to completion in accordance with the terms of the variance. An appeal of the decision to grant a variance shall toll this time limitation until finally decided.

SECTION 17.4 ADMINISTRATIVE REVIEW

- A. The Zoning Board of Appeals is authorized to review all decisions made in the administration of this Ordinance. The Board may uphold, reverse, or modify any order, decision or determination made by the Zoning Administrator or Planning Commission, except as otherwise noted in this Ordinance. The appeal or request for administrative review shall be submitted to the Township Clerk with the required fee.
- B. The filing of an appeal to the Zoning Board of Appeals or request for administrative review shall stay all proceedings in furtherance of the action being reviewed unless the Zoning Administrator or Planning Commission certifies in writing to the Zoning Board of Appeals that a stay would cause imminent peril to life or property.

SECTION 17.5 INTERPRETATION AND CLASSIFICATION OF USES

Upon application or petition and the filing of the appropriate fees, the Zoning Board of Appeals shall be authorized to interpret any ambiguity that may occur in the administration of this Ordinance. Such ambiguities shall include, but are not limited to:

- A. The precise location of the boundary lines between zoning districts when there is a question about the exact location;
- B. A provision of this Ordinance, the meaning, intent, or purpose of which cannot be clearly determined by the Zoning Administrator, Planning Commission, or Township Board.

- C. The classification of any use which is not specifically mentioned in any district regulations as a permitted principal use or a special use. In classifying an unlisted use, the Zoning Board of Appeals shall base its decision and any accompanying restrictions on listed uses that are consistent with and similar to the unclassified use.
- D. A determination of the off-street parking and loading space requirements for any use or activity which is not classified by this Ordinance.

SECTION 17.6 APPEALS

- A. Any person aggrieved by the decision of the Zoning Administrator or Planning Commission may appeal said decision to the Zoning Board of Appeals. The appellant shall file a letter with the Zoning Board of Appeals within ten (10) calendar days of the decision being appealed. The appellant's letter shall specify the grounds for the appeal and the facts supporting the appeal. The appeal shall be limited to the issues raised by the appellant.
- B. An appeal shall not be effective until the appellant has paid the appropriate fee to the Zoning Board of Appeals. This fee shall be in an amount as determined by the Township Board, from time to time.
- C. An appeal shall not be considered received, nor reviewed, processed, or scheduled for a hearing until an appellant provides the Zoning Board of Appeals with a sufficient deposit to cover the Township's expenses in reviewing the appeal.
 - 1. The deposit shall be in an amount sufficient to cover the expenses of professional review by the Township Engineer, Attorney, Planner, or other expert consultant.
 - 2. The deposit shall be in the form of an irrevocable letter of credit, surety bond, cash, or some other form of payment acceptable to the Township.
 - 3. In the event the deposit is inadequate to reimburse the Township for the aforementioned expenses, appellant shall be required to provide additional deposits in an amount equal to the shortfall.
 - 4. Any portion of the deposit not used by the Zoning Board of Appeals in reviewing an appeal shall be returned to the appellant, regardless of whether or not the appeal is successful.
- D. In its review of the decision, the Zoning Board of Appeals shall consider the following:
 - 1. The appellant's letter and validity of grounds for appeal.
 - 2. The factual record available to the decision maker.
 - 3. Any verbal or written information submitted to the Zoning Board of Appeals in response to a request for the information by the Zoning Board of Appeals.
- E. In its determination of the appeal, the Zoning Board of Appeals may take any of the following actions:
 - 1. Affirm the decision with or without modification.

2. Refer the matter back to the decision maker for further consideration, study, or additional documentation. The Zoning Board of Appeals shall inform the decision maker of the issues that it believes are in need of further consideration, study, or documentation. Once the decision maker has examined the issues, it shall send the matter with a report back to the Zoning Board of Appeals for a decision.
 3. Reverse the decision if it is not in accordance with the intent and purpose of this Ordinance.
- F. Any party aggrieved by any order, determination, or decision of the Zoning Board of Appeals may appeal as provided for by law.

ARTICLE 18: AMENDMENTS AND REZONING

SECTION 18.1 AUTHORITY

The Township Board may amend, supplement, or change the provisions of this Ordinance, provided that all amendments and procedures are in accordance with the Michigan Zoning Enabling Act, MCL 125.3101 *et seq.*

SECTION 18.2 REZONING

For the purposes of this Article and other applicable sections of this Ordinance, the term "rezoning" shall be considered an amendment to the Zoning District Map. The procedure for rezoning shall follow the procedure set forth in this Article for amendments.

SECTION 18.3 INITIATION OF AMENDMENTS

Proposals for amendments may be initiated by the Township Board, Planning Commission, by petition of one or more residents of Bethany Township, or by one or more persons acting on behalf of a resident of Bethany Township.

SECTION 18.4 PROCEDURE

A. Authority. The Township Board, after review and recommendation by the Planning Commission, has authority to adopt amendments to the text of this Ordinance and the zoning map.

B. Procedure for Amendment of Zoning Ordinance.

- 1. Pre-Application Conference.** The applicant/property owner must attend a pre-application conference to be coordinated by the Zoning Administrator. This meeting may include the Township Supervisor, Chairperson of the Planning Commission, Zoning Administrator, and consultants hired by the Township or other officials to discuss the project. The Zoning Administrator may require the applicant to make an escrow deposit to cover the Township's actual costs incurred for such a meeting.
- 2. Application.** Twelve (12) copies for an application seeking an amendment to the text or map shall be filed with the Township Clerk. The Township Clerk shall date stamp all materials received, retain the original documents, and distribute the copies appropriately.
- 3.** The application shall provide the following information if an application involves an amendment to the official zoning map:
 - a.** A legal description of the property, including the street address and tax code number(s).
 - b.** The name, address and telephone number of the applicant.
 - c.** The applicant's interest in the property. If the applicant is not the owner, the name and address of the record and known owner(s), and the owner(s) signed consent to the application.

- d. Identification of the zoning district requested and the existing zoning of the property.
 - e. Identification of the area that is being considered for rezoning and existing land uses within that area, along with a description of the current zoning and existing land uses of all properties within five hundred (500) feet of that area.
 - f. Signature(s) of the applicant(s) and owner(s), certifying the accuracy of the information.
 - g. Further information as requested by the Zoning Administrator, consultants hired by the Township, Planning Commission, or Township Board that is relevant to the site and standards set forth in this Ordinance.
4. The application shall provide the following information if an application involves a change in the text of this Ordinance:
- a. A detailed statement clearly and completely setting forth all proposed provisions and regulations, including all changes in the zoning ordinance necessary to accommodate the proposed amendment.
 - b. Name and address of the applicant.
 - c. Reasons for the proposed amendment.
 - d. Further information as requested by the Zoning Administrator, consultants hired by the Township, Planning Commission, or Township Board, that is relevant to the proposed text amendment.
 - e. Right of Entry. The filing of an application to rezone shall constitute permission from the owner for the Township to complete an on-site investigation of the property in question for purposes of this Section.
5. **Application Fee.** The applicant shall submit to the Township Clerk with the application an application fee in an amount established by resolution of the Township Board to cover the fixed costs associated with processing the application.
6. **Escrow deposit.** The Zoning Administrator, after review of the application, shall establish an amount to be deposited by the applicant with the Township Clerk as an escrow deposit to defray the anticipated costs incurred by the Township to review and process the application(s). The Planning Commission shall not commence consideration of the merits of the application(s) until the escrow deposit is received by the Township Clerk. Any unused portions of the escrow deposit remaining after consideration and processing of the application shall be returned to the applicant(s).
7. **Initial Review.** The Zoning Administrator shall review the application(s) for completeness and indicate to the applicant additional information and documents to be provided. The Planning Commission shall schedule all public hearings and the Township Clerk or his/her designee shall coordinate public notices.

8. Public Hearing - Planning Commission. The Planning Commission shall conduct a public hearing on the proposed text amendment or rezoning as provided in the Michigan Zoning Enabling Act, MCL 125.3101 *et seq.*

9. Administrative Report. Following the public hearing the Planning Commission may request that the Zoning Administrator and/or other persons retained by the Township present a report that analyzes the application(s) with respect to the requirements and standards of applicable federal and state statutes, ordinances, rules and regulations.

C. Standards and Burden. In deciding a request for a zoning text amendment or rezoning, the Planning Commission and Township Board shall be governed by the following principles and standards:

1. The applicant shall have the burden of proof, which shall include the burden of going forward with the evidence and the burden of persuasion on all questions of fact.

2. Decisions to amend the ordinance text or official zoning map are legislative in nature, and the Township Board ultimately has discretion to act in the interest of the public health, safety and general welfare.

3. In considering an application for rezoning, the following factors may be considered, among others:

a. Whether all required information has been provided and fees paid.

b. Consistency with the goals, policies and future land use map of the Master Plan. If conditions have changed since the Master Plan was adopted, the rezoning may be found to be consistent with recent development trends in the area.

c. The compatibility of all uses permitted in the proposed zoning district with surrounding uses and zoning in terms of land suitability, impacts on the environment, density, nature of use, traffic impacts, aesthetics, infrastructure and potential influence on property values compared to uses permitted under current zoning;

d. The capacity of local utilities and public services sufficient to accommodate all the uses permitted in the requested district without compromising the "health, safety and welfare" of the Township, including the capacity of the street system to safely and efficiently accommodate the expected traffic generated by uses permitted in the requested zoning district.

e. The precedents, and the possible effects of such precedents, that might result from approval or denial of the petition; and

f. Whether the requested rezoning will create an isolated and unplanned spot zone.

D. Payment of Costs. Prior to any decision on an application for rezoning or concurrent application, the applicant shall pay all costs and expenses incurred by the Township to review and process the application(s). If sums due and owing the Township are not paid,

the Township Board may delay making its decision(s) until such time as the sums are fully paid, dismiss the application(s), or take such other action as provided by law.

SECTION 18.5 PUBLIC NOTICE

Public notice of any hearing required by this Ordinance shall comply with the following provisions:

- A.** Notice shall be published in a newspaper of general circulation in the Township no less than fifteen (15) days before the date of the hearing.
- B.** Owners of property that is within three hundred (300) feet of the property subject to a request shall be provided with at least fifteen (15) days' written notice. Such notice shall be delivered either personally or by mail. If any property within three hundred (300) feet of the subject property contains more than four (4) dwelling units, notice may be given to the manager or owner of that structure, who shall then post the notice at the structure's primary entrance.
- C.** Notices shall contain, at minimum, the following:
 - 1.** A description of the nature of the request.
 - 2.** An indication of the property that is subject to the request, along with a listing of all existing street addresses within the property. In the event there are no such addresses existing within the subject property, other means of identification may be used.
 - 3.** A statement as to when and where the request may be considered.
 - 4.** An indication of where and when written comments will be received concerning the request.
- D.** Any neighborhood organization, public utility company, railroad or any other person or organization may register with the Zoning Administrator or the Clerk to receive written notice of hearing of applications for approval. Fees may be assessed for the provision of this notice.
- E.** All registered entities or persons must re-register biannually to continue to receive notification pursuant to this section.

SECTION 18.6 CONDITIONAL REZONING

- A.** An owner of land may voluntarily offer in writing, and the Township may approve certain use and development of the land as a condition to a rezoning of the land or an amendment to a zoning map.
- B.** In approving the conditions under Subsection A, the Township may establish a time period during which the conditions apply to the land. Except for an extension under Subsection D, if the conditions are not satisfied within the time specified under this subsection, the land shall revert to its former zoning classification.
- C.** The Township shall not add to or alter the conditions approved under Subsection A during the time period specified under Subsection B.
- D.** The time period specified under Subsection B may be extended upon the application of the landowner and approval of the Township.
- E.** A Township shall not require a landowner to offer conditions as a requirement for rezoning. The lack of an offer under Subsection A shall not otherwise affect the landowner's rights under this Ordinance, the ordinances of the Township, or any other laws of this state.
- F.** An application for conditional rezoning shall follow the procedures of this Article. If a rezoning is approved, the landowner shall then follow all the applicable procedures and regulations of this Ordinance in pursuance of the intended use or uses.
- G.** Upon approval of a proposed project, the landowner shall provide to the Township an agreement of conditions, in a recordable contractual form, stating the terms, conditions and obligations of the rezoning.