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# Zoning Ordinance

Marion Township

Livingston County, Michigan

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Adopted: March 14, 1996

Effective Date: April 24, 1996

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**ZONING ORDINANCE**  
**MARION TOWNSHIP, LIVINGSTON COUNTY, MICHIGAN**

**PREAMBLE**

An Ordinance enacted by the Township under the Michigan Zoning Enabling Act, Public Act 110 of 2006, as amended, to provide for the establishment of zoning districts within which the proper use of land and natural resources may be encouraged or regulated by Ordinance, and within which district provisions are adopted

designating the location of, the size of, the uses that may be made of, the minimum open spaces, sanitary, safety, and protective measures that shall be required for, and the maximum number of families that may be housed in dwellings, buildings, and structures, including tents and trailer coaches; to provide for administration and amendments of said Ordinance; to provide for appeals and for the organization and procedures to be followed by the Zoning Board of Appeals; and to provide for penalties for the violation of said Ordinance.

**ARTICLE I:           SHORT TITLE**

This Ordinance shall be known and cited as the Marion Township Zoning Ordinance.

**ARTICLE II:         INTENT AND PURPOSE**

**Section 2.01        Intent**

It is the purpose of this Zoning Ordinance to promote the public health, safety, comfort, convenience, and general welfare of the inhabitants of the Township by encouraging the use of lands and natural resources in accordance with their character, adaptability and suitability for particular purposes; to enhance social and economic stability; to prevent excessive concentration of population; to reduce hazards due to flooding; to conserve and stabilize the value of property; to provide adequate open space for light and air and preserving community character; to prevent fire and facilitate the fighting of fires; to allow for a variety of residential housing types and commercial and industrial land uses; to lessen congestion on the public streets and highways; to facilitate adequate and economical provision of transportation, sewerage and drainage, water supply and distribution, education, recreation and other public services and facilities; to assure adequate provision of the state's citizens for food, fiber, energy and other natural resources; to ensure appropriate locations and relationships for uses of land; and to facilitate the expenditure of funds for adequate public facilities and services by establishing herein standards for physical development in accordance with the goals, objectives and policies contained in the Master Plan for the Township; and to provide for the administration and enforcement of such standards.

**ARTICLE III:       DEFINITIONS**

**Section 3.01        Construction of Language**

For the purpose of this Ordinance, certain rules of construction apply to the text as follows:

- A. Words used in the present tense include the future tense; and the singular includes the plural, unless the context clearly indicates the contrary.
- B. The word "person" includes a corporation, association, partnership, trust, firm, or similar activity as well as an individual.
- C. The word "building" includes the word "structure" and each term applies to any part thereof.
- D. The word "lot" includes the word "plot", "tract", or "parcel".
- E. The term "shall" is always mandatory and not discretionary; the word "may" is permissive.
- F. The word "used" or "occupied" as applied to any land or building shall be construed to include the words intended, arranged, maintained for or designed to be used or occupied.
- G. The words "this Ordinance" means the text of this Ordinance as well as all maps, tables, graphics, schedules as included or attached as enacted or subsequently amended.
- H. Unless the context clearly indicates the contrary, where a regulation involves two or more items, conditions, provisions, or events connected by the conjunction "and," "or," "either...or," the conjunction shall be interpreted as follows:
  - 1. "And" indicates that all the connected items, conditions, provisions, or events shall apply.
  - 2. "Or" indicates the connected items, conditions, provisions or events may apply singly or in any combination.

3. "Either...or" indicates that the connected items, conditions, provisions, or events shall apply singly, but not in combination.
- I. Any word or term not interpreted or defined by this Ordinance shall be used with a meaning of common or standard utilization. A dictionary may be consulted.
- J. In computing a period of days, the first day is excluded and the last day is included. If the last day of any period is a Saturday, Sunday, or legal holiday, the period is extended to include the next day which is not a Saturday, Sunday, or legal holiday.

### **Section 3.02 Definitions**

**Abutting (lot or parcel):** A lot or parcel which shares a common property line with the subject lot or parcel.

**Accessory Structure:** A building or structure customarily incidental and subordinate to the principal building and located on the same lot as the principal building.

**Accessory Use:** A use customarily incidental and subordinate to the principal use of the land or building and located on the same lot as the principal use.

**Adult Entertainment Uses (*Amended 10/2000*):** Any use of land, whether vacant or combined with structures or vehicles thereon by which said property is devoted to displaying or exhibiting material for entertainment, a significant portion of which includes matter or actions depicting, describing or presenting "Specified Sexual Activities" or "Specified Anatomical Areas". Adult entertainment uses shall include, but not be limited to, the following:

- A. **An adult motion picture theater** is an enclosed building with a capacity of fifty (50) or more persons used for presenting material which has a significant portion of any motion picture or other display depicting or relating to "Specified Sexual Activities" or

“Specified Anatomical Areas” for observation by patrons therein.

- B. **An adult mini-motion picture theater** is an enclosed building with a capacity for less than fifty (50) persons used for presenting material which has as a significant portion or any motion picture or other display depicting, describing or presenting “Specified Sexual Activities” or “Specified Anatomical Areas”.
- C. **An adult motion picture arcade** is any place to which the public is permitted or invited wherein coin or slug operated or electronically or mechanically controlled still or motion picture machines, projectors, or other image producing devices are maintained to show images to five (5) or fewer persons per machine at any one time, and where significant portion of images so displayed, depicted, described or related to “Specified Sexual Activities” or “Specified Anatomical Areas”.
- D. **An adult book store** is a use which has a display containing books, magazines, periodicals, slides, pictures, cassettes, or other printed or recorded material which has a significant portion of its content or exhibit matter or actions depicting, describing or relating to “Specified Sexual Activities” or “Specified Anatomical Areas” or an establishment with a (substantial) segment or section devoted to the sale or display of such material.
- E. **An adult cabaret** is a nightclub, theater, or other establishment which features live performances by topless and/or bottomless dancers, “go-go” dancers, exotic dancers, strippers, or similar entertainers, where a significant portion of such performances show, depict or describe “Specified Sexual Activities” or “Specified Anatomical Areas”.
- F. **An adult motel** is a motel wherein matter, actions or other displays are presented which contain a significant portion depicting, describing, or relating to “Specified Sexual Activities” or Specified Anatomical Areas”.
- G. **An adult massage parlor** is any place where for any form of consideration or gratuity, massage, alcohol rub, administration of fomentations, electronic or magnetic treatment or any other treatment or manipulation of the human body occurs as part of or in connection with “Specified Sexual Activities” or where any person providing such treatment, manipulation or service related thereto exposes “Specified Anatomical Areas”.
- H. **An adult model studio** is any place where, for any form of consideration or gratuity, figure models who display “Specified Anatomical Areas” are provided to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by persons paying such considerations or gratuities, except that this provision shall not apply to any bona fide art school or similar education institution.
- I. **An adult sexual encounter center** is any business, agency, or person who, for any form of consideration or gratuity, provides a place where three or more persons, not all members of the same family may congregate, assemble or associate for the purpose of engaging in “Specified Sexual Activities” or exposing “Specified Anatomical Areas”.
  - 1. **Significant Portion** – As used in the above definitions, the phrase “significant portion” shall mean and include:
    - a. Any one or more portions of the display having continuous duration in excess of five (5) minutes; and/or,

- b. The aggregate or portions of the display having duration equal to ten (10) percent or more of the display.
  - c. The aggregate of portions of the collection of any materials or exhibits composing the display equal to ten (10) percent or more of the display.
- 2. **Display** – As used in the above definitions, the word display shall mean any single motion or still picture, presentation, dance, or exhibition, live act, or collection of visual materials such as books, films, slides, periodicals, pictures, video cassettes or any other printed or recorded matter which is open to view or available to the general population whether for free or otherwise.
- 3. **“Specified Sexual Activities”**
  - a. Human genitals in a state of sexual stimulation or arousal;
  - b. Acts of human masturbation, sexual intercourse or sodomy;
  - c. Fondling or other erotic touching of human genitals, pubic region, buttock or female breast.
- 4. **“Specified Anatomical Areas”**
  - a. Less than completely and opaquely covered: 1) human genitals, pubic region; 2) buttock; and 3) female breast below a point immediately above the top of the areola; and,
  - b. Human male genitals in a discernible turgid state, even if completely and opaquely covered.
- 5. **Regulated Uses** – Those uses and activities, which require licenses, approval or permits by Township regulations.

**Adult Foster Care Family Home:** A private residence with the approved capacity to receive six (6) or fewer adults who are provided supervision, personal care, and protection, in addition to room and board for 24 hours a day, five or more days a week, and for two or more consecutive weeks for compensation. The Adult Foster Care Family Home licensee shall be a member of the household, and an occupant of the

residence. These facilities shall not include adult foster care facilities licensed by a state agency for care and treatment of persons newly released from or assigned to adult correctional institutions.

**Adult Foster Care Large Group Home:** A facility with the approved capacity to receive 13, but no more than 20, adults who are provided supervision, personal care, and protection, in addition to room and board for 24 hours a day, five or more days a week, and for two or more consecutive weeks for compensation. These facilities shall not include adult foster care facilities licensed by a state agency for care and treatment of persons newly released from or assigned to adult correctional institutions.

**Adult Foster Care Small Group Home:** A facility with the approved capacity to receive 12 or fewer adults who are provided supervision, personal care, and protection in addition to room and board for 24 hours a day, five or more days a week, and for two or more consecutive weeks for compensation. These facilities shall not include adult foster care facilities licensed by a state agency for care and treatment of persons newly released from or assigned to adult correctional institutions.

**Agricultural Building:** A structure designed and constructed to house farm implements, hay, grain, poultry, livestock, or other horticultural products and that is clearly incidental to agricultural activity, excluding the business of retail trade.

**Agricultural-based Tourism/Entertainment Activities:** Activities accessory to an active farming or agricultural operation that promote agriculture, rural lifestyle, or farm product sales; preserve rural open space; enhance the local agricultural economy; expand the range of revenue sources from agriculture. Such activities may include, but are not limited to, agricultural festivals and events, farm-based attraction, corn mazes, farm markets, wineries, cider mills, and farm-based educational centers.

**Alley:** A public or legally established right-of-way, other than a street, affording a secondary means of vehicular access to abutting property and not intended for general traffic circulation.

**Alteration:** Any change, addition or modification in construction or type of occupancy; any change in the structural members of a building, such as walls or partitions, columns, beams or girders; any change in the dimensions or configuration of the roof, exterior walls or foundation, or any change which may be referred to herein as altered or reconstructed.

**Animal Unit:** A unit of measure used to compare differences in the production of animal waste produced on a regular basis by a slaughter steer or heifer, with the following equivalencies applicable to other livestock:

1. Slaughter steer or heifer (all cattle): 1 animal unit
2. Horses: 2 animal units
3. Mature dairy cow: 1.4 animal units
4. Swine: 0.4 animal units
5. Sheep and goats: 0.10 animal units
6. All fowl: 0.05 animal units

(See also Sections 6.02 and 8.01.B.2.)

**Apartment Unit:** One or more rooms, including private bath and kitchen facilities, comprising an independent, self-contained dwelling unit in a building containing three or more dwelling units.

**Apartment House:** See Dwelling, Multiple-family.

**Aquifer:** A geologic formation composed of rock or sand and gravel that contains significant amounts of potentially recoverable potable water.

**Asphalt Batch Plant:** A temporary facility for the production and manufacture of asphalt paving material.

**Automobile Fueling/Mixed-Use Station:** Any building, land area, other premises or portion thereof where gasoline and other petroleum products are sold in addition to car washes, the sale of convenience items or fast-food restaurant. This definition includes the sale of gasoline as an accessory to a large retail or grocery store.

**Automobile Repair Garage:** Any building, land area, other premises or portion thereof used for automotive servicing and repair. This does not include auto refinishing, body work, painting and dismantling of vehicles for reuse or resale.

**Basement:** That portion of a building which is partly or wholly below finished grade, but so located that the vertical distance from the average grade to the floor is greater than the vertical distance from the average grade to the ceiling. A basement, as defined herein, shall not be counted as a story. (See Figure 3-1) A cellar is a basement.

**Bed and Breakfast:** A dwelling unit in which overnight accommodations and a morning meal are provided to transients for compensation.

**Bedroom:** A private room planned and intended for sleeping, separated from other rooms by a door, and accessible to a bathroom without crossing another bedroom.

**Berm:** A mound of earth graded, shaped and improved with landscaping in such a fashion as to provide a visual and/or audible screen and a transition between uses of differing intensity.

**Billboard:** A sign structure advertising a service, commodity or establishment, which is not sold, produced, manufactured, or furnished at the property on which said sign is located, also known as "off-premise sign" or "outdoor advertising structure." Such sign is subject to the requirements of the Highway Advertising Act, PA 106 of 1972, MCL 252.301 et seq., as well as to the provisions of this Ordinance.

**Buffer Zone:** A strip of land reserved for plant material, berms, walls, or fencing to serve as a visual and/or sound barrier between properties, often between abutting

properties and properties in different zoning districts. Landscaping, berms, fencing or open space can also be used to buffer noise, light and related impacts from abutting properties even if not in a separately established buffer zone and may be so required by this Ordinance.

**Buildable Area:** The area of any lot or parcel of land that is actually buildable which for the purpose of developing land or computing densities, shall not include existing or proposed rights-of-way for public or private roads, major utility or pipeline easements, floodplains, wetlands (regulated and non-regulated), lakes, ponds, streams, or any other body of water, except as otherwise provided for in this Ordinance.

**Building Envelope:** The three-dimensional space within which a structure is permitted to be built and that is defined by the dimensional requirements of this Ordinance.

**Building:** Any structure, either temporary or permanent, having a roof supported by columns, walls, or any other supports, which is used for the purpose of housing, sheltering, storing, or enclosing persons, animals, or personal property, or carrying on business activities. This definition includes, but is not limited to: mobile homes, tents, sheds, garages, greenhouses, lean to and other principal or accessory structures.

**Building Inspector:** An individual hired by Livingston County to administer the County Building Code.

**Building Line:** A line parallel to the street line touching that part of a building closest to the street.

**Cargo Containers:** Standardized reusable receptacles that are:

1. Originally designed for or used in the parking, shipping, movement or transportation of freight, articles, good or commodities; and/or
2. Originally designed for or capable of being mounted or moved by rail, truck or ship by means of being mounted on a chassis or similar transport “portable site

storage containers” having a similar appearance to and similar characteristics of cargo containers.

**Carport:** A partially open structure, intended to shelter one or more vehicles.

**Cation Exchange Capacity (CEC):** The total capacity of a soil to hold exchangeable cations. CEC is an inherent soil characteristic and is difficult to alter significantly. It influences the soil’s ability to hold onto essential nutrients and provides a buffer against soil acidification.

**Cellar:** See Basement.

**Cemetery:** Property, including mausoleums and/or columbariums, used or intended to be used solely for the perpetual interment of deceased human beings or customary household pets.

**Certificate of Occupancy:** A document issued by the Building Inspector allowing the occupancy or use of a building and certifying that such use, building or structure complies with the provisions of the County Building Code.

**Certificate of Zoning Compliance:** A permit issued by the Zoning Administrator permitting the use of land, buildings and/or structures and certifying that such all improvements to the land were constructed in compliance with the provision of this Ordinance.

**Change of Use:** Any use of a building, structure or parcel of land, or portion thereof that is different

from the previous use in the way it is classified in this Ordinance or in the State Building Code, as amended.

**Child Care Center:** A facility receiving one or more preschool or school age children for care for periods of less than 24 hours a day, and where the parents or guardians are not

immediately available to the child. A child care center includes a facility that provides care for not less than two consecutive weeks, regardless of the number of hours of care per day. An educational program may be provided, but the educational program shall not be the primary purpose of the child care center. Furthermore, the child care center shall not be considered a school as defined by this ordinance. Such a facility is also referred to as including, but not limited to, a day care center, day nursery, nursery school, playgroup, full-child child care centers, or drop-in center. A child care center does not include any of the following:

1. A Sunday school, a vacation bible school, or a religious instructional class that is conducted by a religious organization where children are in attendance for not greater than three hours per day for an indefinite period, or not greater than eight hours per day for a period not to exceed four weeks during a calendar year.
2. A facility operated by a religious organization where children are cared for not greater than three hours while persons responsible for the children are attending religious services.
3. Summer day camp.

**Church:** A building primarily designed and constructed for organized religious services, maintained and controlled by a religious body organized to sustain public worship, together with all accessory structures and uses customarily associated with such primary purpose.

**Clinic:** An establishment where human or animal patients are admitted for examinations and treatment by a physician, dentist, veterinarian, or similar professional.

**Club:** An organization of persons for special purposes or for the promulgation of sports, arts, science, literature, politics, agriculture or similar activities, but not operated for profit and open only to members, not the general public.

**Cluster Development:** A form of development that permits a reduction in lot area and width requirements, provide there is no increase in the number of lots or dwelling units permitted under a conventional subdivision, site condominium development or a Planned Unit Development project in the underlying zoning district, with the remaining

land area being devoted to open space, active recreation, preservation of environmentally sensitive areas or agriculture. **(Amended 9/2000)**

**Commercial Private Road:** A way or means of approach that provides access to two or more principal commercial buildings, and which is constructed and maintained by the owner or owners and is not dedicated for general public use. Parking aisles and parking lot maneuvering lanes shall not be construed to be private roads.

**Common Open Space:** Land within or related to a development, not individually owned or publicly dedicated, that is designed and intended for the common use or enjoyment of the residents and their guests, including such improvements as necessary.

**Communication Tower:** A radio, telephone or television relay structure of monopole design, attached directly to the ground or to another structure, used for the transmission or reception of radio, television, microwave, or any other form of telecommunication signals.

**Community Supported Agriculture:** Farm products for a group of farm members or subscribers who pay in advance for their share of the harvest.

**Community Wastewater Utility System:** A facility which is owned by a non-governmental entity and is designed, constructed, operated, and maintained to transport, collect, process, and treat residential sanitary sewage from more than one (1) dwelling unit. The system shall include any individual septic tanks, pumps, lines, and appurtenances serving each dwelling unit in addition to facilities, sewers, and appurtenances that serve more than one (1) dwelling unit.

**Condominium Project:** A plan or project consisting of not less than two condominium units established and approved in conformance with the provisions of the Condominium Act, PA 59 of 1978, MCL 559.101 et seq.

**Condominium Subdivision:** A division of land on the basis of condominium ownership, which is not subject to the provisions of the Subdivision Control Act of 1967, Public Act 288 of 1967, as amended, MCL 506.101 et seq.

**Condominium Plan:** The drawings and information attached to the master deed including, but not limited to, a survey plan, floodplain plan, site plan, utility plan, floor plans, description of the size, location, area, and horizontal boundaries of each unit, number assigned to each unit, vertical boundaries and volume of each unit, building sections, and description of the nature, location, and size of common elements. For the purpose of this Ordinance, a condominium plan shall be equivalent to the term "condominium subdivision plan" as defined by MCL 559.104.

**Condominium Unit:** That portion of a condominium project which is 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. In condominium projects where a condominium unit(s) will consist of a building envelope, the term "condominium unit" shall be equivalent to the term "lot", for purposes of determining compliance with the provisions of this Ordinance pertaining to minimum lot size, minimum lot width, maximum lot coverage, and the like.

**Contractor Storage Yard:** An area used for the storage of equipment and/or non-hazardous materials used for providing construction-related contracting services by a single entity. No retail or wholesale sales shall be permitted.

**Corral:** A fenced enclosure for confining livestock.

**Crematory:** A building or portion of a building devoted to cremation services for deceased human bodies.

**Data Processing Facility:** A building, dedicated space within a building, or group of structures located on one or more acres of land used to house a large group of computer systems and associated components, such as telecommunications and data processing systems, to be used for the remote storage, processing, or distribution of

large amounts of data. Examples of such data include, but are not limited to, computationally intensive applications such as blockchain technology, cryptocurrency mining, weather modeling, genome sequencing, etc. Such facilities may also include air handlers, power generators, water cooling and storage facilities, utility substations, and other associated utility infrastructure to support operations.

**Density:** The number of dwelling units situated on or to be developed on a parcel of land that shall be calculated on the buildable area or net acreage of the parcel. (See definition for Buildable Area.)

**Development:** The construction, reconstruction, conversion, structural alteration, relocation, or enlargement of any structure; any mining, excavation, landfill, or land disturbance; and any use or extension of the use of land.

**Discharge:** Discharge includes, but is not limited to, any spilling, leaking, seeping, pouring, misapplying, emitting, emptying, or dumping of any pollutants prohibited by law or regulations, that affects surface water or groundwater.

**District:** An area of land for which there are uniform regulations governing the use of buildings and premises, density of development, yard requirements, and height regulations. Also known as a zone or zoning district.

**Dog Nuisance Barking:** Barking that is unreasonably annoying, disturbing, offensive, or which unreasonably interferes with the comfortable enjoyment of one (1) or more persons occupying property next to or in reasonable proximity of the kennel. The barking must be continuously audible for ten (10) minutes or intermittently audible for thirty (30) minutes within a three (3) hour period.

**Dog Run:** A locked and fenced-in outdoor area where dogs can run and exercise in a controlled manner.

**Drive-in Establishment:** An establishment which by design, physical facilities, service, or by packaging procedures encourages or permits customers to receive services, obtain goods, or be entertained while remaining in their motor vehicles.

**Driveway:** A means of access for vehicles from a street or approved alley across a lot or parcel to a parking or loading area, garage, dwelling or other structure or area on the same lot, that is located and constructed in accordance with the requirements of this Ordinance and any requirements of the Livingston County Road Commission or State of Michigan.

**Dwelling:** Any building, or portion thereof, which is designed or used exclusively for residential purposes. In no case shall a motor home, trailer coach, automobile chassis, tent or portable building be considered a dwelling.

**Dwelling, Multiple-Family:** A building containing three or more dwelling units.

**Dwelling, Single-Family:** A building containing one dwelling unit and that is not attached to any other dwelling.

**Dwelling, Two-Family (Duplex):** A building on a single lot containing two dwelling units, each of which is totally separate from the other except for common exterior steps.

**Dwelling Unit:** One or more rooms intended for occupancy as a separate living unit, with bathroom, kitchen facilities, and bedrooms provided in the unit for the exclusive use of a single-family.

**Easement:** A grant of one or more property rights from a property owner to another person or public.

**Easement, Utility:** The recorded legal rights of a utility provider to enter, pass over, or use property not owned by them for the purpose of building, maintaining, or providing the utility.

**Engineered Steel Structure:** a building enclosure system that always includes a structural system and often includes roof and wall cladding. The roofing system attaches to the purlins. The wall systems include wall secondary structural members called girts that also span from frame to frame.

**Erected:** Includes built, constructed, reconstructed, moved upon, or any physical operations on the premises required for the building. Excavations, fill, drainage, and the like, shall be considered a part of erection when done in conjunction with a structure.

**Essential Services:** The erection, construction, alteration, or maintenance by public utilities or municipal departments of underground, surface or overhead gas, communication, telephone, electrical, steam, fuel or water transmission or distribution systems, collections, supply or disposal systems, including poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm and police call boxes, traffic signals, hydrants and similar accessories in connection therewith which are necessary for the furnishing of adequate service by such utilities or municipal departments for the general public health, safety, convenience, or welfare, but not including towers, office buildings, substations, or structures which are enclosures or shelters for service equipment, or maintenance depots.

**Excavation:** Any breaking of ground, except common household gardening, general farming and ground care.

**Exotic Animal:** See Wild Animal.

**Family:** A group of individuals not necessarily related by blood, marriage, adoption, or guardianship living together in a dwelling unit as a single housekeeping unit and having an intentionally structured relationship providing organization and stability. Family does not include an individual, or group of individuals, residing in a residential care or treatment structure, halfway house or any similar type of use of residential structures.

**Family Accessory Apartment:** An apartment within a single-family residence. A family accessory apartment is defined as "a separate living space within a single-family

residence consisting of separate sleeping, cooking, and bathroom facilities and which is intended to be occupied by family members related by blood or law to a family unit occupying the main part of the residence.”

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

**Farm Market:** A place or an area where transactions between a farm market operator and customers take place. It does not have to be a physical structure and is considered part of a farm operation. Fifty percent of the products must be produced or and by the affiliated farm. A farm market may operate seasonally or year-round. A farm market shall conform to Michigan Right to Farm Act, PA 93 of 1981, Farm Market GAAMPS, as amended.

**Farm/Farm Operation:** As defined by the Right to Farm Act, PA 93 of 1981, as amended.

1. **Farm Operation, Animals.** All aspects of a Farm Operation, Crops, with the addition of the following: use of feed lots; handling and care of farm animals for profit. A Farm Operation, Animals, does not include an Intensive Livestock Operation (ILO.)
  
2. **Farm Operation, Crops.** The operation and management of a farm or a condition or activity that occurs at any time as necessary on a farm in connection with the commercial production, harvesting, and storage of farm products, and includes, but is not limited to:
  - a. Marketing produce at roadside stands
  - b. The generation of noise, odors, dust, fumes, and other associated conditions

- c. The operation of machinery and equipment necessary for a farm including, but not limited to, irrigation and drainage systems and pumps and on-farm grain dryers, and the movement of vehicles, machinery, equipment, and farm products and associated inputs necessary for farm operations
- d. Field preparation and ground and aerial seeding and spraying
- e. The application of chemical fertilizers or organic materials, conditioners, liming materials, or pesticides
- f. Use of alternative pest management techniques
- g. The fencing, feeding, watering, sheltering, transportation, treatment, use, handling and care of farm animals not for profit
- h. The management, storage, transport, utilization, and application of farm by-products, including manure or agricultural wastes
- i. The conversion from a farm operation activity to other farm operation activities
- j. The employment and use of labor.

This use includes greenhouses and orchards, but does not include nurseries (see definition) or landscape contractors.

**Farm Product:** A farm product means those plants and animals useful to humans produced by agriculture and includes, but is not limited to, forages and sod crops, grains and feed crops, field crops, dairy and dairy products, poultry and poultry products, cervidae, livestock, equine, fish and other aqua cultural products, bees and bee products, berries, herbs, fruits, vegetables, flowers, seeds, grasses, nursery stock, trees and tree products, mushrooms and other similar products, or any other product that incorporates the use of food, feed, fiber, or fur as determined by the Michigan Commission of Agriculture & Rural Development.

**Farmland Preservation Program:** The Michigan Farmland Preservation Program, Part 361 of the Natural Resources and Environmental Protection Act, PA 451 of 1994, also commonly referred to as PA 116.

**Fence:** An accessory structure artificially constructed as a barrier and made of wood, metal, stone, brick, or any manufactured materials erected for the enclosure of yard areas.

**Filling:** The depositing or dumping of any matter into or onto the ground.

**Flood Hazard Area:** That area subject to flooding, on the average of at least once in every hundred years as established by the Federal Emergency Management Agency.

**Floodplain:** Normally dry land areas that temporarily experience partial or complete inundation from:

1. The overflow of inland waters onto land adjoining the channel of a river stream, water course, lake or other body of water.
2. The unusual and rapid accumulation or runoff of surface water.

**Floor Area, Gross:** The sum of all gross horizontal areas of all floors of a building or buildings, measured from the outside dimensions of the outside face of the outside wall. Unenclosed and uncovered porches, unenclosed and covered porches, courtyards, or patios shall not be considered as part of the gross area except where they are utilized for commercial purposes such as the outdoor sale of merchandise.

**Floor Area, Useable:** That area to be used for the sale of merchandise or services, or for use to serve patrons, clients, or customers. Such floor area which is used or intended to be used principally for the storage or processing of merchandise, hallways, stairways, and elevator shafts, or for restrooms and janitorial service rooms, shall be excluded from this computation of useable floor area. Useable floor area shall be measured from the interior faces of the exterior walls, and total useable floor area for a building shall include the sum of the useable floor area for all floors.

**Footing:** That portion of the foundation of a structure that spreads and transmits loads directly to the soil or the pilings.

**Funeral Homes:** An establishment occupied by a professional licensed mortician, with facilities for embalming, burial preparation, cremation ceremonies and memorial services.

**GAAMPS:** Generally Accepted Agricultural and Management Practices, et. seq., as established under the Michigan Right to Farm Act, PA 93 of 1981, as amended.

**Garage:** An accessory structure or an accessory portion of a principal building designed or used solely for the storage of motor vehicles, boats, motor homes, snowmobiles, and similar vehicles owned and used by the occupants of the building to which it is accessory.

**Garage, Parking:** A structure or series of structures for the temporary storage or parking of motor vehicles.

**Golf Course:** Any facility, public or private, where the game of golf is played, includes accessory uses and buildings customary thereto, but excluding golf driving ranges as a principal use.

**Grade, Finished:** The lowest point of existing elevation between the exterior wall of the structure and a line 10 feet from the exterior wall of the structure. (See Figure 3-3.)

**Grade, Natural:** The elevation of the ground surface in its natural state, before man-made alterations.

**Group Child Care Home:** A private home in which more than six but not more than twelve minor children are given care and supervision for periods of less than 24 hours a day unattended by a parent or legal guardian, except children related to an adult member of the family by blood, marriage, or adoption. Group child care home includes a

home that gives care to an unrelated minor child for more than four weeks during a calendar year.

**Habitable Space:** Space in a dwelling unit, or building, used for living, sleeping, eating, cooking, or otherwise conducting activities directly related to the building's principal use, which is equipped with means of egress, light, and ventilation facilities in accordance with applicable construction codes. Bathrooms, toilet compartments, halls, and closets are not considered to be habitable space.

**Height:** In the case of a principal building, the vertical distance measured from the finished grade to the highest point of the roof surface, except as follows: to the deck line of mansard roofs, and the average height between eaves and the ridge of gable, hip, and gambrel roofs. (See Figure 3-2.) The measurement of height of an accessory structure or structure shall be determined as the vertical distance from the finished grade to the highest point of the roof surface. (See also Sections 6.07.5. and 6.12.)

**Home Occupation:** An occupation, profession, activity or use that is incidental and secondary use of a residential dwelling unit and which does not alter the exterior of the property or affect the residential character of the neighborhood. A Home Occupation is conducted within a dwelling including an attached garage, or a building accessory to the dwelling, and complies with the standards of Section 6.14.

**Horse:** Includes mule, burro, pony, jack, hinny, and all other quadrupeds of the genus equus.

**Hospital:** Hospital shall mean an institution, place or campus complex providing both in-patient and out-patient health care services for observation, diagnosis and active treatment of patients with a medical, surgical, obstetric, chronic or rehabilitative condition requiring the care and supervision of physicians and medical support staff, including as an integral part of the institution such related facilities as laboratories, pharmacies, clinics, food service facilities, administrative and financial service facilities, training facilities, central service facilities, staff facilities, continuum of care facilities and other related uses.

**Impervious Surface:** Materials or structures on or above the ground that do not allow precipitation to infiltrate the underlying soil.

**Industrial Private Road:** A way or means of approach that provides access to two or more principal industrial buildings, and which is constructed and maintained by the owner or owners and is not dedicated for general public use. Parking aisles and parking lot maneuvering lanes shall not be construed to be private roads.

**Inoperable or Abandoned Motor Vehicle:** Any wheeled vehicle which is self-propelled and intended to be self-propelled, and which by reason of dismantling, disrepair or other cause is incapable of being propelled under its own power.

**Inorganic Compound:** Any substance in which two or more chemical elements (usually other than carbon) are combined, nearly always in definite proportions, either naturally occurring or manmade.

**Intensive Livestock Operation (ILO):** The raising of livestock or fowl, for remuneration or sale, shall be considered intensive if the number of livestock or fowl raised are so large that the waste thereof cannot be completely disposed of on the farm on which raised, by spreading as fertilizer as recommended by application rates, without chemical or mechanical treatment. For purposes of this definition, a density of two cows, three steers, sixty hogs, or six hundred fifty hens or more per acre shall constitute an intensive livestock operation.

**Junk:** Any motor vehicles, machinery, appliances, products, or merchandise with parts missing or scrap metals or other trash, rubbish, refuse or scrap materials that are damaged or deteriorated, except if in a completely enclosed building. Further, any inoperable or abandoned motor vehicle which is not licensed for use upon the highways of the State of Michigan for a period in excess of 30 days, and any motor vehicle, whether so licensed or not, which is inoperative for any reason for a period in excess of 30 days and which is not in a completely enclosed building. It does not include domestic refuse if stored so as to not create a nuisance and is 30 feet or more from any residential structure for a period not to exceed seven days. It also includes any other material so determined to be litter pursuant to Ordinance #3 of the Township, commonly known as the Litter Ordinance. (See also Section 6.23.)

**Junk Yard:** Any land or building used for an accumulation of junk, abandonment, storage, keeping, collecting, or baling of paper, rags, scrap metals, other scrap or discarded materials, or for abandonment, demolition, dismantling, storage or salvaging of automobiles or other vehicles not in normal running conditions, machinery or parts thereof.

**Kennels:** Any lot or premises on which five (5) or more dogs of more than six (6) months of age are kept temporarily or permanently, as pets, or any lot or premises for the purpose of caring for, dog rescue, boarding, training or sporting purposes, breeding, for sale, or otherwise, excluding a facility that is exclusive to only grooming services. This definition shall not be deemed to apply to a litter of puppies with their mother and under six (6) months of age.

**Kennel Indoor Area:** Any building that is fully enclosed with permanent walls, roof, and floor where dogs are housed either temporarily or permanently on any lot or premises.

**Kennel Outdoor Area:** Any area on any lot or premises outside of the kennel indoor area used for any type of exercising of dogs. This area includes dog run enclosures that are attached to the kennel indoor area by either a door or gate.

**Land Clearing:** The large-scale, indiscriminate removal of trees, shrubs, and undergrowth with the intention of preparing real property for non-agricultural development purposes.

**Landscape Contractor's Buildings, Offices and Yards:** A space, building or structure, or combination thereof, used primarily for the storage of equipment, tools, vehicles, and materials used in or associated with a landscape contracting business.

**Landscape Contractor/Contracting:** The sale, storage or transportation of fertilizers, mulch, groundcovers, boulders, and similar products used for landscaping or gardening and could include the sale of live trees, shrubs or plants grown or not grown on the property.

**Landscaping:** The following definitions shall apply in the application of this Ordinance:

1. **Berm**—A mound of earth graded, shaped and improved with landscaping in such a fashion as to provide a visual and/or auditory screen.
2. **Buffer Zone**—An area of land between land uses/properties that will serve as a visual and/or sound barrier. A greenbelt, as defined below, may function as a buffer zone and therefore are sometimes used together, i.e., greenbelt buffer.
3. **Greenbelt**—An area of land of specified width and location set aside exclusively for landscaping and/or existing vegetation. Generally, a greenbelt serves to visually reduce the impact of an adjoining land use or the view of a land use from the public street. As such, a greenbelt should include in its landscaping, existing vegetation, berms, fences, open space or any combinations thereof.
4. **Natural Vegetation**—Non-invasive plant material that is indigenous to the Midwest including trees, shrubs, herbs and grasses.
5. **Opacity**—The state of being impervious to sight.
6. **Plant Material**—A collection of living evergreen and/or deciduous, woody-stemmed trees, shrubs, vines and ground cover.
7. **Visual Buffer**—The use of landscaping or retained natural vegetation or the use of landscaping along with berms that at least partially and periodically obstruct the view from the street or an abutting property in such a manner that the vehicular use areas, parking lots, parked cars, detention ponds and conflicting activity areas will be partially or completely screened.

**Land Use Permit:** A permit signifying compliance with the provisions of this Ordinance as to use, activity, bulk, setback, and density.

**Lean to:** A pitched roof having supports and against or leaning on an adjoining wall or building open on one wall.

**Livestock:** Cattle, sheep, goats, swine, poultry, and other animals or fowl, which are being produced primarily for use as food or food products for human consumption.

**Loading Space:** An off-street space on the same lot with a building, or group of buildings, for the temporary parking of a commercial vehicle while loading or unloading merchandise or materials.

**Lot:** Land described in a recorded plat or by metes and bounds description, occupied, or to be occupied by, a building, group of buildings, or use, having sufficient size to comply with the frontage, area, width-to-depth ratio, setbacks, yards, coverage and buildable area requirements of this Ordinance, and having its principal frontage on a public street or a private road approved by the Township. (See also Condominium Unit.)

1. Corner Lot: A lot that has at least two contiguous sides abutting upon a public street and/or private road for their full length.
2. Flag Lot: A lot whose access to a public street or private road is by a narrow, private right-of-way that is part of the lot. (See also Figure 3-7.)
3. Interior Lot: A lot other than a corner lot.
4. Through Lot: An interior lot having frontage on two, more or less, parallel public streets and/or private roads.

**Lot Area, Gross:** The area contained within the lot lines or property boundary including street right-of-way. (See Figure 3-6.)

**Lot Area, Net:** The area within the lot lines of a lot, exclusive of any public street rights-of-way abutting any side of the lot. (See Figure 3-6.)

**Lot Coverage:** The amount of a lot, stated in terms of percentage, which is covered by all buildings, located thereon, including roofed porches, arbors, breezeways, patio roofs, whether open box types and/or lathe roofs, or fully roofed, but not including fences, walls, or hedges used as fences, unroofed decks or patios or swimming pools. Lot coverage shall be measured from the drip line of the roof or from the wall or foundation if there is no projecting portion of the roof.

**Lot Depth:** The average distance measure from the front lot line to the rear lot line.

**Lot Frontage:** The length of the front lot line measured at the road right-of-way line, except as provided for flag lots. (See Section 6.11.)

**Lot Line:** The line(s) bounding a lot or parcel. (See Figure 3-7.)

1. Front Lot Line: The line separating the lot from any street right-of-way, private road or other access easement.
2. Rear Lot Line: The lot line opposite and most distant from the front lot line. In the case of a triangular or otherwise irregularly shaped lot or parcel, an imaginary line at least ten feet in length entirely within the lot or parcel, parallel to and at a maximum distance from the front lot line.
3. Side Lot Line: Any lot line other than a front or rear lot line, which shall be at right angles to straight streets and radial to curved streets and cul-de-sacs on either public or private roads, except where such lot lines would create unusual, inconvenient, or irregular lot shapes.
4. In the case where the above definitions are not sufficient to designate lot lines, the Zoning Administrator shall designate the front, rear and side lot lines in consideration of the orientation of the building(s) on the lot, the address of the lot, the orientation of other building(s) along the road frontage, and natural features affecting site design.

**Lot of Record:** A lot which is part of a subdivision, the plat of which has been recorded in the Office of the County Register of Deeds, or a tract, parcel or lot described by metes and bounds, the deed to which has been recorded by the County Register of Deeds, or a Tax Code Number has been issued, prior to the adoption or amendment of this Ordinance.

**Lot Width:** The horizontal distance between side lot lines measured parallel to the front lot line at the minimum required front setback line. (See Figure 3-7.)

**Lot, Zoning:** A single tract of land, located within a single parcel, which, at the time of filing for a building permit, is designated by its owner or developer as a tract to be used, developed, or built upon as a unit, under single ownership or control. A zoning lot shall satisfy this Ordinance with respect to area, size, dimensions, and frontage as required in the district in which the zoning lot is located. A zoning lot therefore, may not coincide with a lot of record as filed with the County Register of Deeds, but may include one or more lots of record. ***(Amended 6-03)***

**Major Private Road (>5 dwellings):** A way or means of approach that provides access to five or more dwellings, and which is constructed and maintained by the owner or owners and is not dedicated for general public use.

**Major Thoroughfare:** A public street, the principal use or function of which is to provide an arterial route for through traffic, with its secondary function the provision of access to abutting property and which has been classified as a County Primary, State Trunkline, or U.S. Trunkline.

**Manufactured Home:** A factory built, single-family dwelling that meets the national manufactured Home Construction and Safety Standards Act, commonly known as the HUD (U.S. Department of Housing and Urban Development) Code.

**Master Deed:** The condominium document recording the condominium project to which are attached, as exhibits and incorporated by reference, the approved bylaws for the condominium project and the condominium plan for the project. The master deed shall include all the information required by MCL 559.108.

**Master Plan:** The statement of policy by the Township Planning Commission relative to the agreed upon and officially adopted guidelines for a desirable physical pattern for future community development. The plan consists of a series of maps, charts and written material representing in summary form the soundest concept for community growth to occur in an orderly, attractive, economical and efficient manner thereby creating the very best community living conditions.

**Minor Private Road (2-5 dwellings):** A way or means of approach that provides access to two or more dwellings, and which is constructed and maintained by the owner or owners and is not dedicated for general public use.

**Minor Thoroughfare:** A public street identified as a county local road by the Livingston County Road Commission, except that no street in a platted subdivision or any private road shall be considered a minor thoroughfare under this Ordinance.

**Mobile Home:** A structure, transportable in one or more sections, which is built on a chassis and designed to be used as a dwelling with or without permanent foundation, connected to the required utilities, and built prior to the enactment of the Federal Manufactured Housing and Construction Safety Act of 1974 (effective June 15, 1976).

**Mobile Home Park:** A parcel or tract of land under the control of an individual, partnership, association, trust, corporation, or any other legal entity or combination of legal entities upon which three (3) or more mobile homes are located on a continual, non-recreational basis and which is offered to the public for that purpose regardless of whether a charge is made therefore, together with any building, structure, enclosure, street, equipment, or facility used or intended for use incident to the occupancy of a mobile home.

**Modular (Pre-Manufactured) Dwelling:** A dwelling unit constructed solely within a factory, as a single unit, or in various sized modules or components, which are then transported by truck or other means to a site where they are assembled on a permanent

foundation to form a single-family dwelling unit, and meeting all codes and regulations applicable to conventional single-family home construction.

**Motel:** A building or group of buildings, whether detached or in connecting units, used as individual

sleeping units designed primarily for transient automobile travelers and providing for accessory off-street parking facilities. The term motel shall include buildings designated as auto courts, tourist courts, motor courts, hotel, or similar operations that are designed as integrated units of individual rooms under common ownership. A motel shall not be considered or construed to be a multiple- family dwelling.

**Motor Home:** A self-propelled, licensed vehicle prefabricated on its own chassis, intended for recreational activities and temporary occupancy.

**Motor Vehicle:** Any vehicle that is self-propelled.

**Municipal Sewage Treatment Facility:** A sewage treatment system owned by a township, charter township, village, city, county, the State of Michigan, or an authority or commission comprised of these governmental units.

**Municipal Water Supply:** A water supply system owned by a township, charter township, village, city, county, the State of Michigan, or an authority or commission comprised of these governmental units.

**Nonconforming Building (Nonconforming Structure):** A building, or portion thereof, lawfully existing at the time of adoption of this Ordinance, or affecting amendment, that does not conform to the provisions of this Ordinance relative to height, bulk, area, placement or yards for the zoning district in which it is located.

**Nonconforming Lot of Record (Substandard Lot):** A lot lawfully existing at the effective date of this Ordinance, or affecting amendment, and which fails to meet the area and/or dimensional requirements of the zoning district in which it is located.

**Nonconforming Use:** A use of a building or of a parcel of land, lawfully existing at the time of adoption of this Ordinance, or affecting amendment, that does not conform to the regulations of the zoning district in which it is situated.

**Nuisance:** An offensive, annoying, unpleasant, or obnoxious thing or practice, a cause or source of annoyance, especially a continuing or repeated invasion of any physical characteristics of activity or use across a property line which can be perceived by or affects a human being, or the generation of an excessive or concentrated movement of people or things including but not limited to: noise; dust; smoke; odor; glare; fumes; flashes; vibration; objectionable effluent; noise of a congregation of people, particularly at night; passing traffic; or invasion of street frontage by traffic generated from an adjacent land use which lacks sufficient parking and circulation facilities.

**Nursery Operations (Right-to-Farm):** A parcel, area, space, building or structure, or combination thereof, used chiefly for the storage of live trees, shrubs, and plants of which at least 50% must be natural growing in the ground; the remainder can be temporarily balled or potted or packaged for retail sale.

**Nursing Home:** A facility other than a hospital, having as its primary function the rendering of nursing care for extended periods of time to persons afflicted with illness, injury, or an infirmity. Also referred to as a convalescent home.

**Ordinary High-Water Mark:** The line between upland and bottomland which persists through successive changes in water levels below which the presence and action of the water is so common or recurrent that the character of the land is marked distinctly from the upland and is apparent in the soil itself, the configuration of the surface of the soil, and the vegetation.

**Organic Compound:** A large class of chemical compounds in which one or more atoms of carbon are covalently linked to atoms of other elements, most commonly hydrogen, oxygen, or nitrogen, either naturally occurring or manmade.

**Outdoor Wood Stoves and Outdoor Furnaces:** An outdoor furnace whose purpose is to provide heat for dwelling or accessory building.

**Owner:** The owner of the premises or a lesser estate in the premises, a mortgagee or vendee in possession, an assignee of rents, receiver, executor, trustee, lessee, or any other person, sole proprietorship, partnership, association, or corporation directly or indirectly in control of a building, structure, or real property, or his or her duly authorized agent.

**Parcel:** A lot described by metes and bounds or described in a recorded plat.

**Parent Parcel:** An existing parcel or contiguous parcels of land under the same ownership at the time this Ordinance became effective (March 14, 1996.)

**Park:** A parcel of land, building or structure used for recreational purposes including, but not limited to, playgrounds, sport fields, game courts, beaches, trails, picnicking areas, and leisure time activities.

**Parking Area, Off-Street:** Any public or private area outside of a public right-of-way, designed and used for parking motor vehicles.

**Parking Space:** A space for the parking of a motor vehicle within a public or private parking area.

**Pasture:** Enclosed, ground vegetated area for grazing or exercising animals.

**Planned Unit Development:** An area of a minimum contiguous size, as specified by this Ordinance, to be planned, developed, operated and maintained as a single entity and containing one or more residential neighborhoods, appropriate commercial, public or private recreational uses, and common open space areas in such combination as provided in this Ordinance.

**Planned Unit Development Agreement:** A written agreement specifying the details of a planned unit development submittal and the conditions under which the submittal received final approval.

**Planning Commission:** The Marion Township Planning Commission.

**Plat:** A map of a subdivision of land recorded with the Register of Deeds pursuant to the Subdivision Control Act, PA 288 of 1967, MCL 501.101 et seq., or a prior statute.

**Pond:** A natural or man-made body of water that is less than five acres and does not have a stream outlet that is used to provide water for livestock, fish and wildlife, recreation, fire control, crop and orchard spraying and irrigation, and other related uses for the person use of the property owner and/or tenants.

**Portable Temporary Storage Container (PSC):** A box-like container typically delivered by truck, used to temporarily store household or other goods and items. A PSC does not include a truck trailer, or other part of a motor vehicle, nor any type of wheeled vehicle or conveyance except when attached to a truck for delivery and removal.

**Pre-existing, Legally Nonconforming Private Road:** Any private road, serving any dwelling or principal commercial and industrial building in existence prior to the adoption by the Board of Trustees of Marion Township of the current private road ordinance.

**Principal Building:** The building on a lot in which the principal use of the lot is conducted.

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

**Private Road:** A way or means of approach that provides access to two or more principal buildings, and which is constructed and maintained by the owner or owners

and is not dedicated for general public use. Parking aisles and parking lot maneuvering lanes shall not be construed to be private roads.

**Private Road Easement:** An easement that is granted exclusively for private access to two or more lots, whether by grant of easement, private dedication, designation as a common area, or other means, and which contains a private road.

**Private Sanitary Sewage Disposal System:** An individual on-site sewage disposal system as defined in the County Health Department Sanitary Code.

**Private Water Supply:** A well or other water supply system approved by the County Health Department pursuant to Part 127 of the Public Health Code, PA 368 of 1978, as amended.

**Prohibited Use:** A use of land that is not permitted within a particular zoning district.

**Public Sanitary Sewer:** A system of pipe owned and maintained by a governmental unit used to carry human, organic and industrial waste from the point of origin to a point of discharge.

**Public Utility:** Any person, firm, or corporation, municipal department, board or commission duly authorized to furnish and furnishing under federal, state, or municipal regulations to the public gas, steam, electricity, sewage disposal, communication, telephone, telegraph, transportation or water.

**Public Water Course:** A stream or creek which may or may not be serving as a drain as defined by the Michigan Drain Code, PA 40 of 1956, as amended, MCL 280.1 et seq., or any body of water which has definite banks, a bed and visible evidence of a continued flow or occurrence of water.

**Recreational Vehicle:** Includes travel trailers, pickup campers, motor homes, folding tent trailers, boats, boat trailers, snowmobiles, all-terrain or special-terrain vehicles, utility trailers, and similar equipment used for transporting recreational equipment.

**Recreational Vehicle Park:** All lands and structures which are owned and operated by private individuals, a business or corporation which are predominantly intended to accommodate recreational vehicles and provide for outdoor recreational activities.

**Regulated Substances:** With respect to wellhead protection:

1. Substances for which there is a safety data sheet, as established by the United States Occupational Safety and Health Administration, and that cites possible health hazards for said substance.
2. Hazardous waste, as defined by the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended.
3. Hazardous substance, as defined by the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) when the hazardous substance is the focus of remedial or removal action being conducted under CERCLA in accordance with the US EPA regulations.
4. Radiological materials.
5. Biohazards.

**Restrictive Covenant:** A provision in a deed restricting the use of property and prohibiting certain uses. Such restrictions are binding on subsequent owners. Unless the Township has an ownership interest in the property, a restrictive covenant is enforced by the parties to the agreement, not by the Township. Also known as a deed restriction.

**Repair:** The reconstruction or renewal of any part of an existing building for the purpose of maintenance.

**Restaurant, Fast Food:** An establishment whose principal business is the sale of food and/or beverages in a ready-to-consume state: within the restaurant building; within a motor vehicle parked on the premises; or off the premises as carry-out orders, and whose principal method of operation includes the following characteristics: food and/or beverages are usually served in edible containers or in paper, plastic or other disposable containers.

**Restaurant, Standard:** An establishment whose principal business is the sale of food and/or beverages to customers in a ready-to-consume state, and whose principal method of operation includes one or both of the following characteristics: customers, normally provided with an individual menu, are served their food and beverage by a restaurant employee, at the same table or counter at which food and beverage are consumed; or a cafeteria-type operation where food and beverage generally are consumed within the restaurant building.

**Restoration:** The reconstruction or replication of an existing building's original architectural features.

**Riding Arena, Private:** An accessory structure to the principal use of the property where horses are kept for private use by the occupants of the parcel and are not for hire or remuneration.

**Right-of-Way:** A street, alley, or other thoroughfare or easement permanently established for passage of persons, vehicles, or the location of utilities. The right-of-way is delineated by legally established lines or boundaries.

**Roadside Stand:** A structure which is used seasonally for the display and sale of agricultural produce. The seasonal operation of a roadside stand shall not be considered a commercial use.

**School:** An educational institution under the sponsorship of a private or public agency providing elementary or secondary curriculum, and accredited or licensed by the State of Michigan; but excluding profit-making private trade or commercial schools.

**Screen:** A structure providing enclosure, such as a fence, and a visual barrier between the area enclosed and the adjacent property. A screen may also be non-structured, consisting of shrubs or other growing materials.

**Setback:** The minimum unoccupied distance between the lot line and the principal and accessory structures, as required herein.

1. Front Setback: Minimum required unoccupied distance, extending the full lot width, between the principal and accessory structures and the front lot line.
2. Rear Setback: Minimum required unoccupied distance, extending the full lot width, between the principal and accessory structures and the lot line opposite the front lot line.
3. Side Setback: Minimum required unoccupied distance, extending from the front setback to the rear setback, between the principal and accessory structures and the side lot line.

**Shooting Range:** Any facility, whether operated for profit or not, and whether public or private, which is designed for the use of firearms which are aimed at targets, skeet or trap. This definition shall not apply to the occasional shooting activities (clay target thrower, target shooting) undertaken by a property owner or tenant for personal enjoyment and contained within the property boundaries.

**Sign:** See Article XV Signage

**Single Ownership:** One or more parcels of land held entirely in the same ownership, which may include one or more persons and may be in any form.

**Site Plan:** A plan showing all salient features of a proposed development, so that it may be evaluated in order to determine whether it meets the provisions of this ordinance. A plot plan depicts a subset of the information required by this ordinance for a site plan.

**Solar Energy:** The following definitions shall apply in the application of this ordinance.

1. **Abandonment:** Any solar energy system or facility that is no longer producing power.
2. **Building Integrated Photovoltaics (BIPVs):** A private or utility solar energy system that is integrated into the structure of a building, such as solar roof tiles or solar shingles.
3. **Decommission:** To remove or retire a solar energy system or facility from active service.
4. **Ground-mounted Solar Energy System:** A private or utility solar energy system that is not attached to or mounted on any roof or exterior wall of any principal or accessory building.
5. **Height:** The height of a solar energy system, measured vertically from the adjacent grade to its highest point at maximum tilt.
6. **Inhabited Structure:** Any existing structure usable for living or non-agricultural commercial purposes, including, but not limited to: working, sleeping, eating, cooking, recreation, office, office storage, or any combination thereof. An area used only for storage incidental to a residential use, including agricultural barns, is not included in this definition. If it is not clear by this definition, the Zoning Administrator shall make a determination of any structure regarding whether or not it is inhabited.
7. **Non-participating Property:** A property that is not subject to a Utility-scale Solar Energy Facility lease or easement agreement at the time an application is submitted for a Special Use Permit for a Utility-scale Solar Energy Facility.
8. **Participating Property:** A property that participates in a lease or easement agreement, or other contractual agreement, with or that is owned by an entity submitting a Special Use Permit application for a Utility-scale Solar Energy Facility.
9. **Photovoltaic Array (PV Array):** A device designed to collect and transform solar

energy into electricity.

10. **Private Solar Energy System:** A Solar Energy System used exclusively for private purposes and not used for commercial resale of energy, except for the sale of surplus electrical energy back to the electrical grid.

11. **Repowering:** Replacing or upgrading Solar Energy System to increase power rating of panels or Solar Energy System accessory structures within the approved project footprint. This does not apply to regular maintenance.

12. **Roof- or Building-mounted Solar Energy System:** A private or utility solar energy system that is attached to or mounted on any roof or exterior wall of any principal or accessory building but excluding BIPVs.

13. **Solar Energy System:** A device designed to collect and transform solar energy into electricity, including, but not limited to, PV arrays, racks, inverters, transformers, wiring, batteries, and electrical system components.

14. **Solar Farm:** See Utility-scale Solar Energy Facility.

15. **Utility-scale Solar Energy Facility:** A facility with solar energy systems where the principal design, purpose, or use of such system is to provide energy to off-site uses or the wholesale or retail sale of generated electricity to any person or entity with a nameplate capacity of at least one hundred (100) megawatts.

**Solid Waste:** Garbage, rubbish, paper, cardboard, metal containers, yard clippings, wood, glass, bedding, crockery, demolished building materials, ashes, incinerator residue, street cleanings, municipal and industrial sludges, and solid commercial and solid industrial waste, animal waste, but not including human body waste, liquid or other waste regulated by statute, ferrous or nonferrous scrap directed to a scrap metal processor or to a re-user of ferrous or nonferrous products, and slag or slag products directed to a slag processor or to a reuser of slag or slag products.

**Special Land Use:** A use of land whose characteristics may create nuisance-like impacts on adjoining lands unless carefully sited according to standards established in this Ordinance. Approval for establishing a special land use is indicated by issuance of a Special Use Permit.

**Special Use Permit:** A permit issued by the Board of Trustees to a person or persons intending to undertake the operation of an activity upon land or within a structure specifically permitted as such pursuant to standards and procedures established in Article XVII.

**Stable, Commercial:** Any structure and adjacent lands used for the boarding, breeding, or care of horses, other than horses used for farming or agricultural purposes. A riding stable may include areas and facilities for training, riding of horses, and for offering of lessons to teach the riding of horses.

**Stable, Private:** An accessory structure and/or use where horses are kept for private use by the occupants of the parcel and are not for hire, remuneration or sale.

**Stable Fencing, Private or Commercial:** A barrier intended to prevent escape, a means of confinement, constructed of wood, metal, wire mesh or synthetic material. Fences containing barbed wire, electric charges or sharp materials must address requirements to satisfy animal being contained.

**Stop Work Order:** An administrative order that is either posted on the property or mailed to the property owner which directs a person not to continue, or not to allow the continuation of an activity which is in violation of this Ordinance.

**Story:** That part of a building, except a mezzanine, included between the surface of one floor and the surface of the next floor, or if there is no floor above, then the space between the floor and the ceiling next above it. A story thus defined, shall not be counted as a story when the space meets the definition of a basement. (See Figure 3-1.)

**Story, Height of:** The vertical distance from the top surface of one floor to the top surface of the next above. The height of the top-most story is the distance from the top surface of the floor to the top surface of the ceiling joists.

**Street:** A dedicated public thoroughfare or approved private road that affords the principal means of access to abutting property and if newly constructed, or reconstructed, meets construction standards promulgated by the Livingston County Road Commission.

**Street Line:** The legal line of demarcation between a street right-of-way and abutting land.

**Structure:** Anything constructed or erected, the use of which requires permanent location on the ground or attachment to something having such location on the ground including, but not limited to, all buildings, independently supported decks, satellite dishes and free-standing signs; excepting anything lawfully in a public right-of-way including, but not limited to, utility poles, sewage pumping stations, utility manholes, fire hydrants, electric transformers, telephone boxes, and related public facilities and utilities defined as essential public services.

**Subdivision:** The division of a lot, tract, or parcel of land into five or more lots, tracts, or parcels of land for the purpose, whether immediate or future, of sale or of building development. The meaning of the term subdivision shall not, however, apply to the partitioning or dividing of land into tracts or parcels of land of more than ten acres.

**Swept Area:** The area that is swept by the wind turbine blade.

**Swimming Pool:** Any structure or container located either above or below grade designed to hold water to a depth of greater than 24 inches, intended for swimming or bathing.

**Township:** Marion Township, Livingston County, Michigan.

**Township Board:** The Marion Township Board of Trustees.

**Township Attorney:** The attorney representing the Township Board.

**Township Engineer:** The staff or consulting engineer of the Township.

**Township Planner:** The staff or consulting planner of the Township.

**Travel Trailer:** See Recreational Vehicle.

**Travel Trailer Park:** See Recreational Vehicle Park.

**U-Pick Operation:** A farm that provides the opportunity for customers to harvest their own farm products directly from the plant.

**Use:** The purpose for which land or a building is arranged, designed or intended, or for which land or a building may be occupied.

**Utility-Scale Battery Energy Storage Facility:** A facility with energy storage systems that absorb, store, and discharge electricity with a nameplate capacity of at least fifty (50) megawatts and an energy discharge capacity of at least two hundred (200) megawatt hours. This does not include fossil fuel storage or power-to-gas storage that directly uses fossil fuel input.

**Utility-Scale Wind Energy Conversion Facility:** A facility with one (1) or more wind turbines that convert wind energy to electrical energy, including all appurtenant structures and infrastructure, that has a nameplate capacity of at least one hundred (100) kilowatts.

**Variance:** A modification of the provisions of the Zoning Ordinance where such variance will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the actions of the applicant, a literal enforcement of the Ordinance would result in a practical difficulty or unnecessary hardship. (See Article V.)

**Vehicle:** Every device in, upon, or by which any person or property is or may be transported or driven upon a highway except devices moved by human power or used exclusively upon stationary rails or tracks.

**Vicious Animal:** Any animal that attacks, bites, or injures human beings or domesticated animals without adequate provocation, or which because of temperament, conditioning, or training, has a known propensity to attack, bite, or injure human beings or domesticated animals.

**Wellhead Protection Area:** The surface and subsurface area surrounding a public water supply well or well field through which contaminants, if discharged, are reasonably likely to move toward and reach the well or the well field. This area is also known as the zone of contribution that contributes groundwater to the well or well field. Wellhead Protection Areas for both the City of Howell and MHOG are present in areas of the township.

**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 which is commonly referred to as a bog, swamp, fen, marsh or wet meadow and which is regulated by the Michigan Department of Environmental Quality.

**Wild Animal:** Any living member of the animal kingdom, including those born or raised in captivity, except the following: human beings, domestic dogs (excluding hybrids with wolves, coyotes, or jackals), domestic cats (excluding hybrids with ocelots or margays), rodents, any hybrid animal that is part wild, and captive-bred species of common cage birds.

**Wind Turbine Height:** The vertical distance between the ground and the highest point of the swept area.

**Wireless Communications Collocation:** to place or install wireless communications equipment on an existing wireless communications support structure or in an existing equipment compound.

**Wireless Communication Equipment Compound:** an area surrounding or adjacent to the base of a wireless communications support structure and within which wireless communications equipment is located.

**Wireless Communication Equipment:** the set of equipment and network components used in the provision of wireless communications services, including, but not limited to, antennas, transmitters, receivers, base stations, equipment shelters, cabinets emergency generators, power supply cables, and coaxial and fiber optic cables, but excluding wireless communications support structures.

**Wireless Communications Support Structure (WCSS):** a structure that is designed to support, or is capable of supporting, wireless communications equipment, including a monopole, guyed tower and water tower.

**Yard:** An open space, on the same lot with a principal building, unoccupied and unobstructed from the ground upward by a building or structure, except as otherwise permitted in this Ordinance and as defined herein (See Figure 3-7.):

1. Front Yard: An open space extending the full width of the lot, the depth of which is the minimum horizontal distance between the front lot line and the nearest point of the foundation of the main building. There shall be maintained a front yard on each street side of a corner lot with the exception listed in Section 7.10— Schedule of Regulations, footnote e.
2. Rear Yard: An open space extending the full width of the lot, the depth of which is the minimum horizontal distance between the rear lot line and the nearest point of the foundation of the main building. In the case of corner lots, there shall only be one rear yard, which shall be determined by the owner.
3. Side Yard: An open space between the principal building and the side lot line, extending from the front yard to the rear yard, the width of which is the horizontal distance from the nearest point of the side lot line to the nearest point of the foundation of the main building.

**Zoning Administrator:** The authorized individual charged with the responsibility of administering this Ordinance and appointed by the Township Board.

**Zoning Board of Appeals:** The Marion Township Zoning Board of Appeals.

**Zoning District (Zone):** A portion of the Township within which specific regulations and requirements, or various combinations thereof, apply as provided in this Ordinance.

Figure 3-1

FIGURE 3-1  
BASEMENT AND STORY

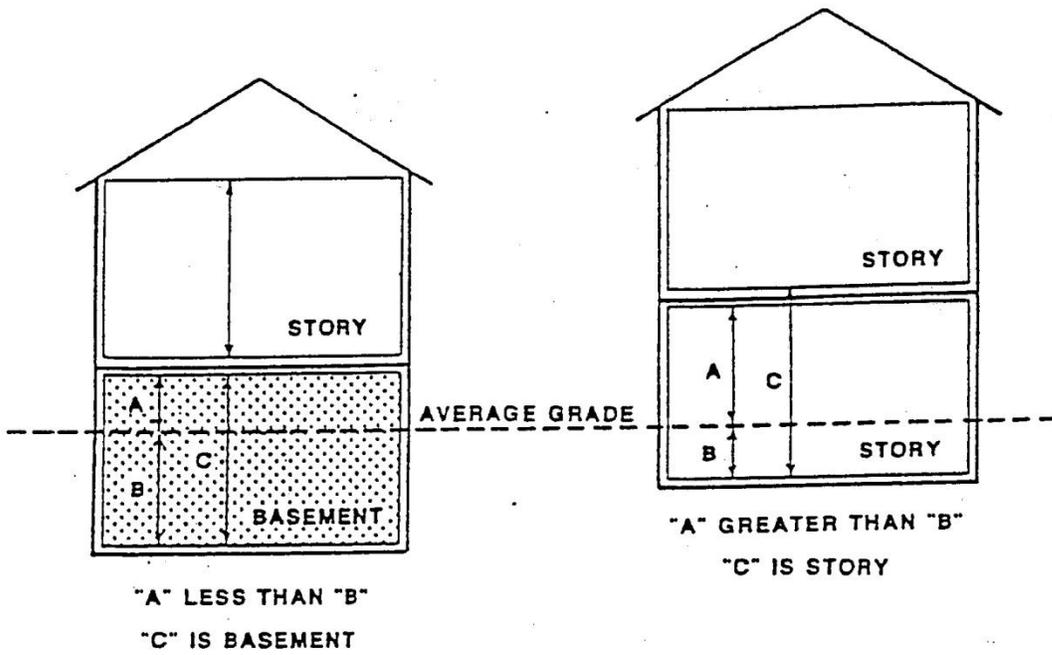


Figure 3-2

FIGURE 3-2  
BUILDING HEIGHTS

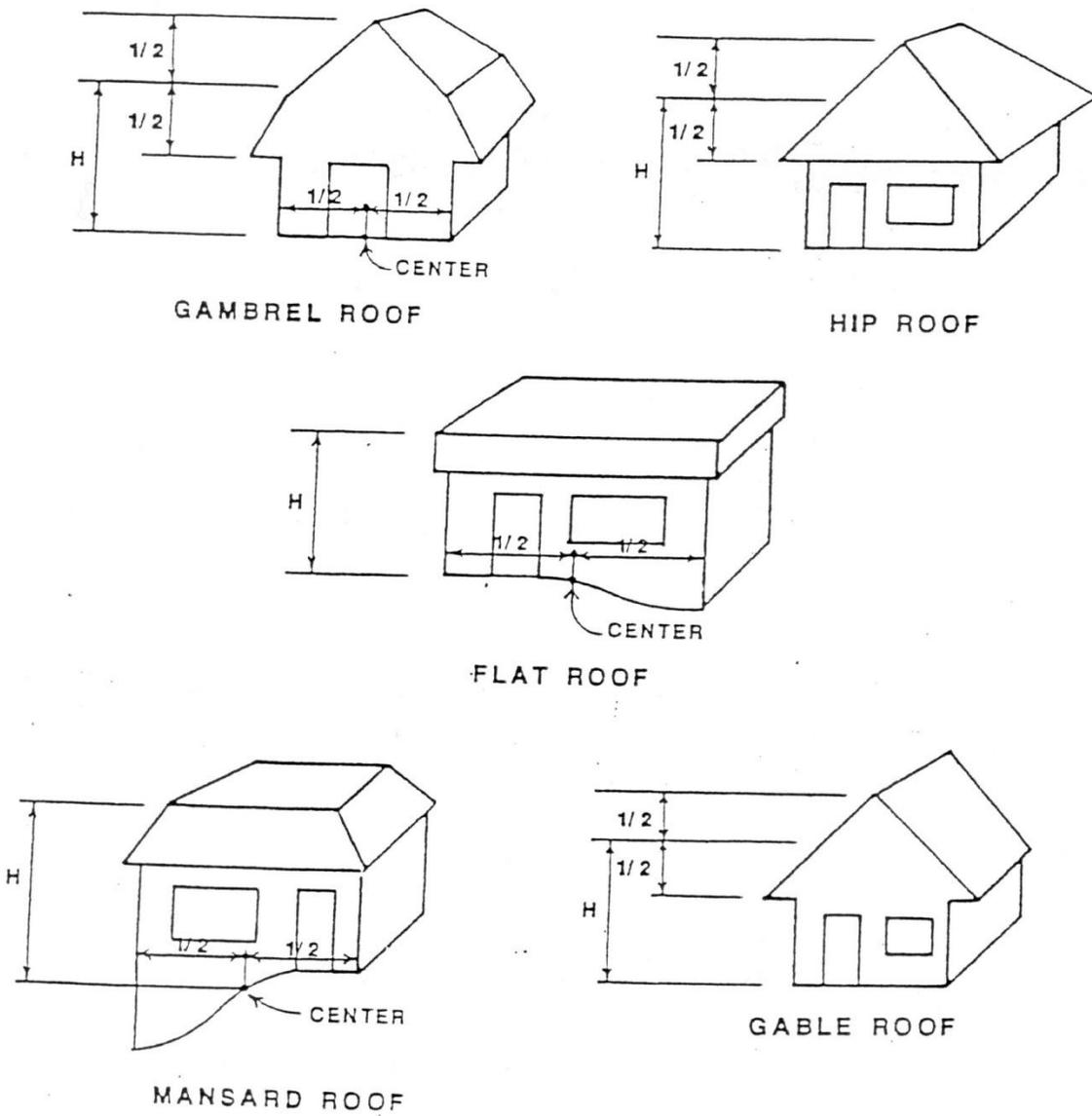


Figure 3-3

FIGURE 3-3  
FINISH GRADE

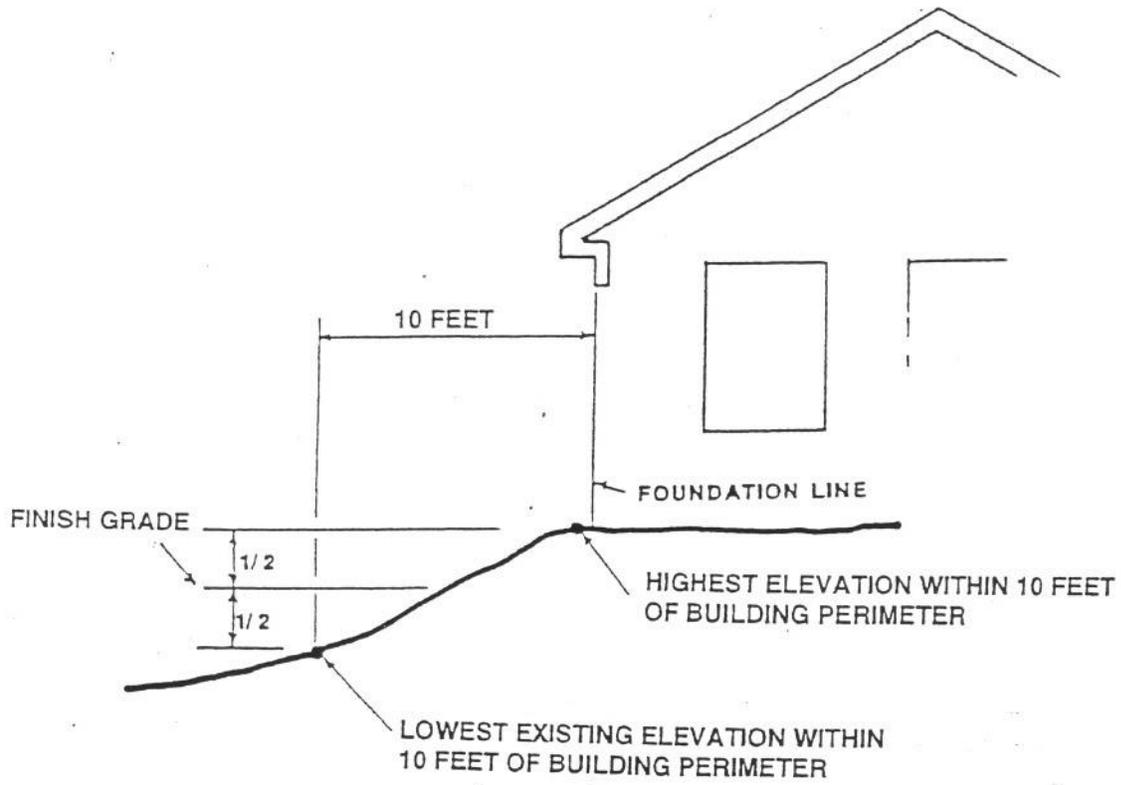


Figure 3-4

FIGURE 3-4  
LOT TYPES

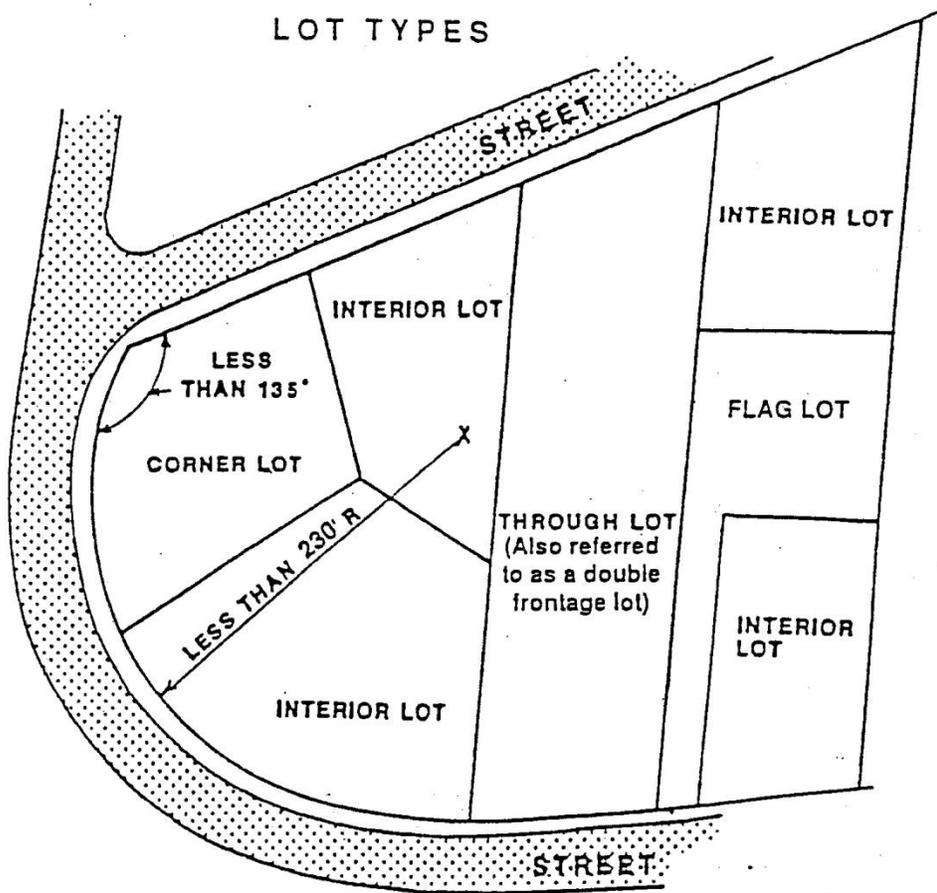


Figure 3-5

FIGURE 3-5  
LOT DEPTH

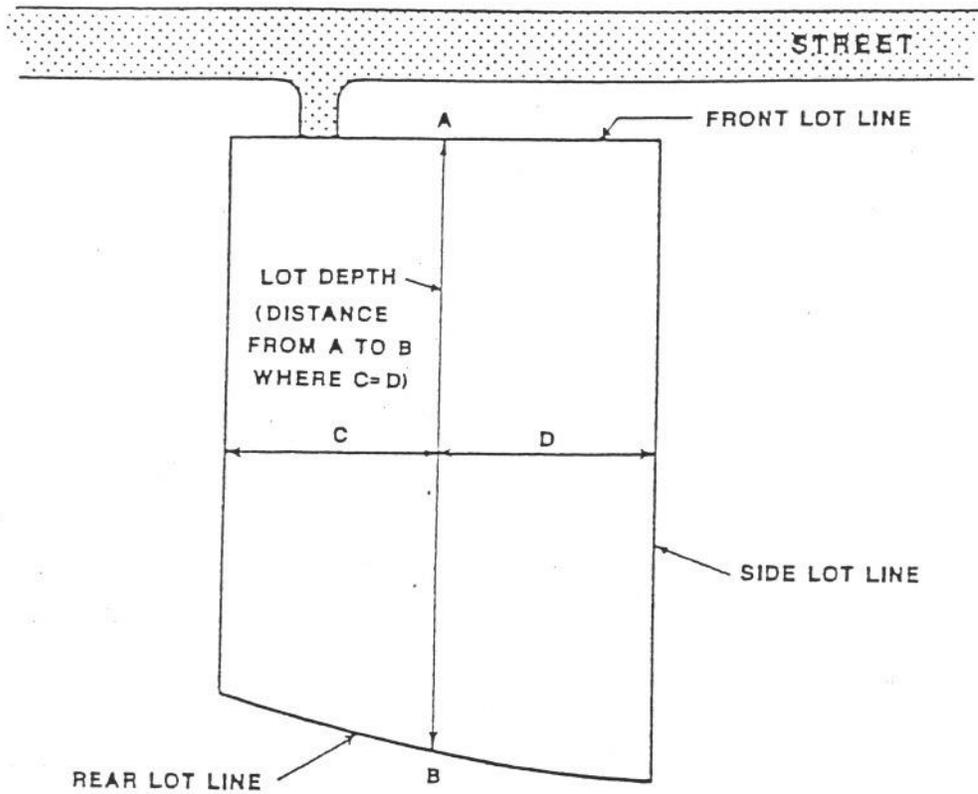


Figure 3-6

FIGURE 3-6  
NET AND GROSS LOT AREA

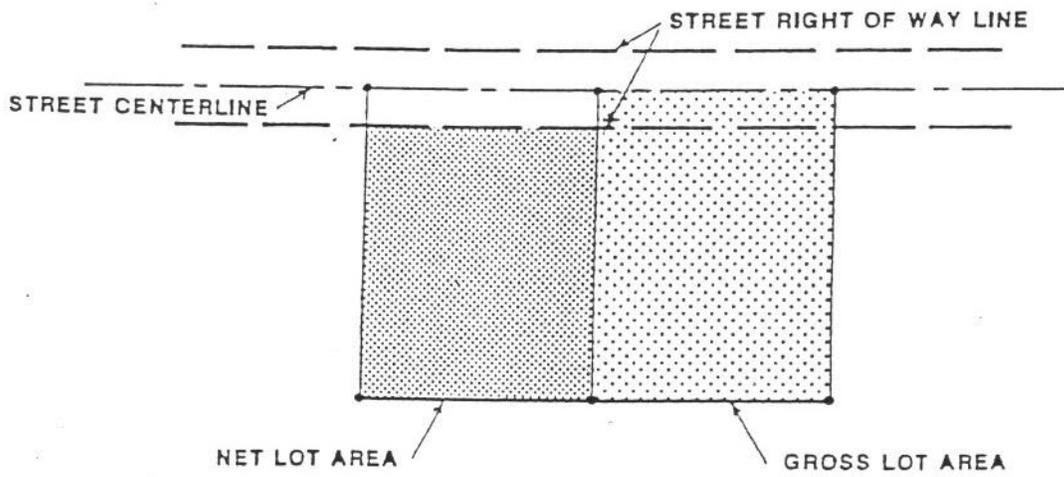
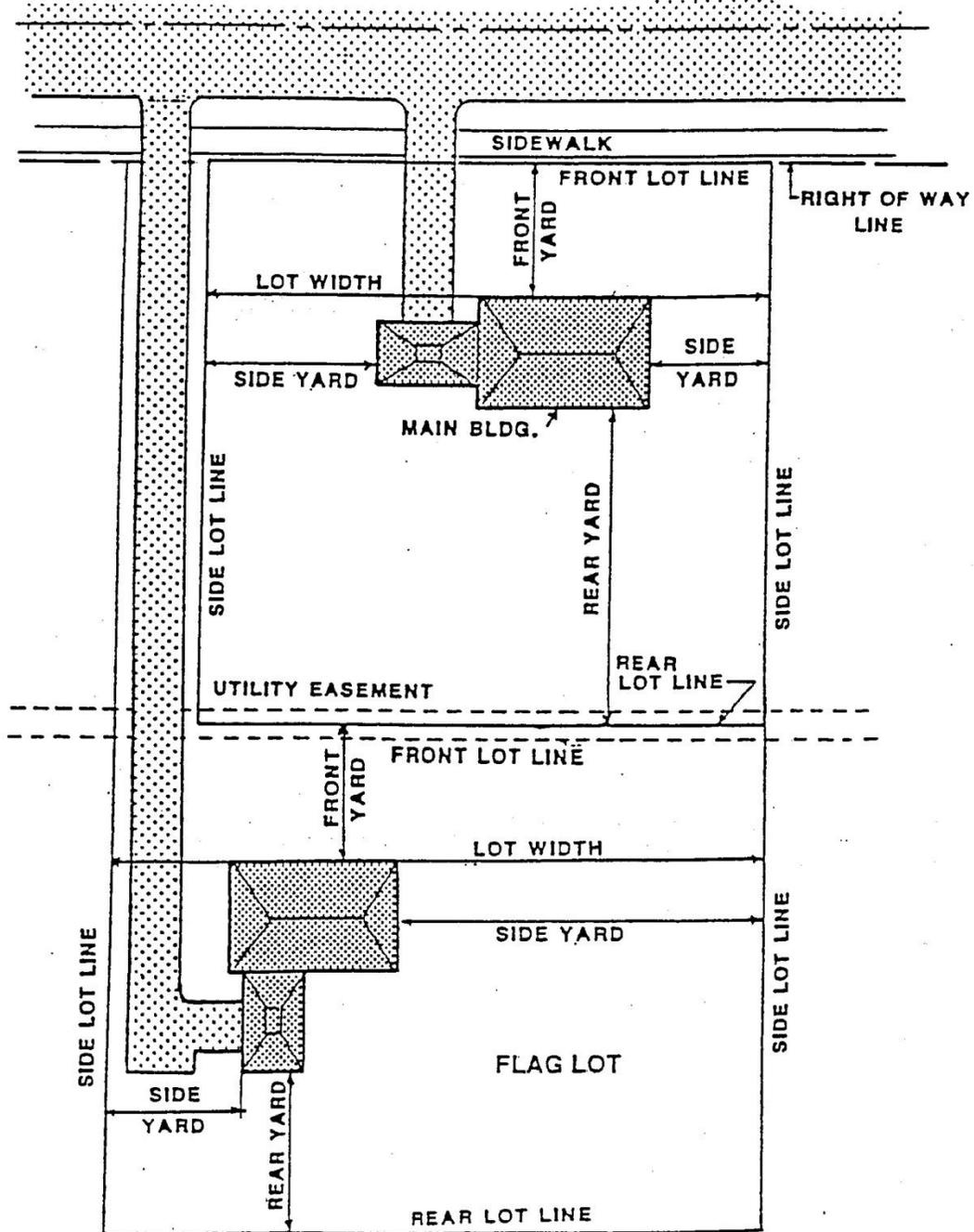


FIGURE 3-7

LOT LINES AND YARDS





Article X: Industrial Districts

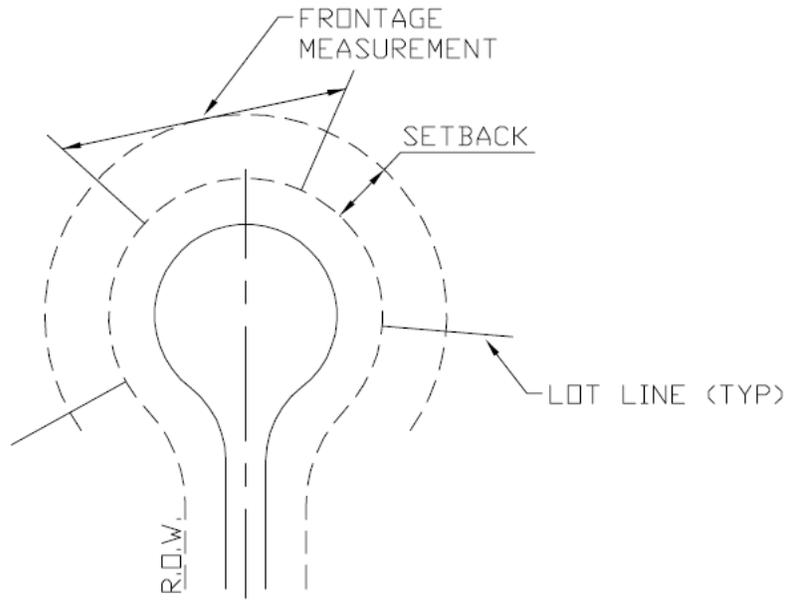
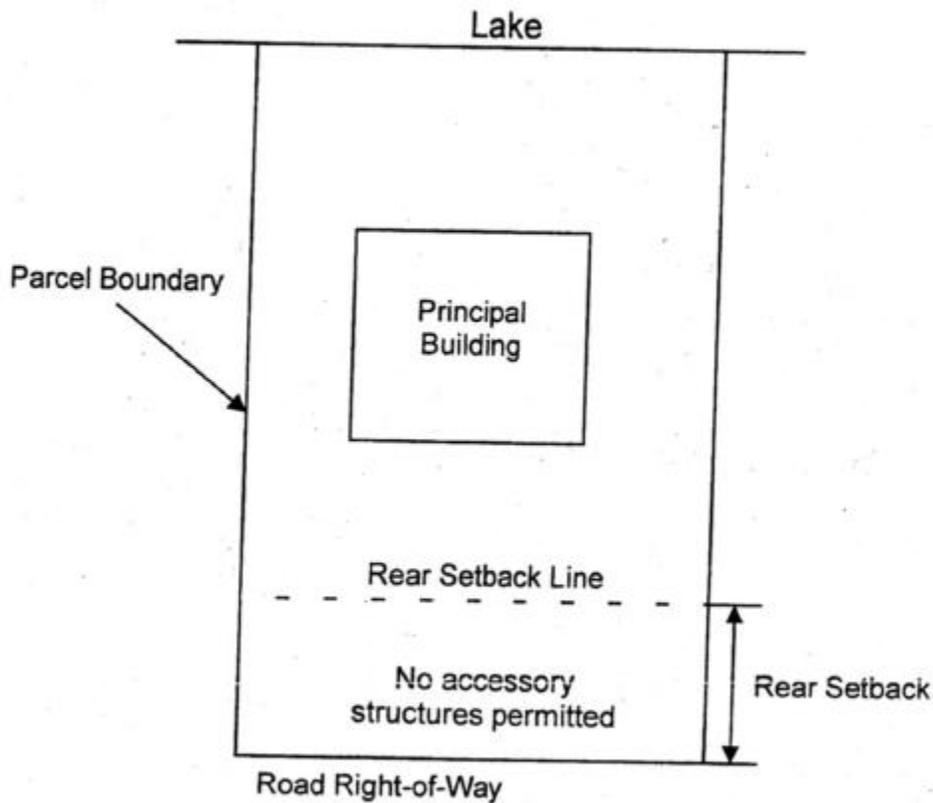


FIGURE 3-8

Figure 3-9



**ARTICLE IV: ADMINISTRATION, ENFORCEMENT AND PENALTIES**

**Section 4.01 Administration**

The administration and enforcement of this Ordinance shall be the responsibility of the Zoning Administrator and Township Board. The Zoning Administrator shall be appointed by the Township Board, and he or she shall not be a member of the Township Board.

**Section 4.02          Duties of the Zoning Administrator**

It shall be the responsibility of the Zoning Administrator to enforce the provisions of this Ordinance and in doing so to perform the following duties:

- A.     **Issue Permits:** All applications for land use permits, temporary land use permits, temporary dwelling permits, special land use permits, planned unit development permits, variances, appeals, requests for Ordinance interpretation, and requests for changes to a nonconforming use shall be submitted to the Zoning Administrator who may issue such permits when all applicable provisions of this Ordinance have been met and approval has been granted by the proper body or official.
  
- B.     **File of Applications:** The Zoning Administrator shall maintain files of all permit applications, and shall keep a record of all permits issued; these shall be filed in the office of the Township Clerk and shall be open for public inspection.
  
- C.     **Inspections:** The Zoning Administrator shall be empowered to make inspections of buildings or premises in order to carry out the enforcement of this Ordinance. No person shall interfere with the Zoning Administrator in the discharge of his/her duties. The Zoning Administrator shall seek a search warrant through the Township Attorney any time a property owner refuses access to a property in order to make an inspection to determine compliance with this Ordinance.
  
- D.     **Record of Complaints:** The Zoning Administrator shall keep a record of every complaint of a violation of any of the provisions of this Ordinance, and of the action taken consequent to each complaint. Such records shall be open for public inspection.
  
- E.     **Violations:** The Zoning Administrator shall equally apply the regulations in this Ordinance to all property owners. Enforcement actions may be initiated by a complaint, or by the Zoning Administrator independently anytime he or she identifies a violation.

## Article X: Industrial Districts

- F. **Report to the Planning Commission and Township Board:** The Zoning Administrator shall report to the Planning Commission and Township Board periodically, at intervals not greater than monthly, summarizing for the period since the last previous report, all land use permits issued, all complaints of violation and any action taken on each complaint.

Under no circumstances is the Zoning Administrator permitted to make changes in this Ordinance, nor to vary the terms of this Ordinance while carrying out the duties prescribed herein.

### Section 4.03 Permit Procedures and Regulations

- A. **Intent and Purpose:** It is the intent and purpose of this section to create a review and permit process for the administration of this ordinance. The primary process shall require the issuance of one permit which shall be the land use permit. Issuance of such a permit, pursuant to Section 4.03 C, shall indicate that the plans and specifications for any particular proposed land use complies with the Zoning Ordinance.
- B. **Jurisdiction:** Land clearing shall not be initiated; the excavation for any building or structure shall not be commenced; the erection of, addition to, alteration of, or moving of any building or structure shall not be undertaken; or any land shall not be used; or any existing land use changed to a different type or class; or the use or occupancy of any building or premises, or part thereof, hereafter shall not be undertaken, without the issuance of the proper and appropriate certificates and permits pursuant to the requirements of Sections 4.03 C and 4.03 D of this ordinance. Except upon written order of the Zoning Board of Appeals, no land use permit shall be issued for any building or use of land where the construction, addition, alternation, or use thereof would be in violation of this ordinance.
- C. **Land Use Permits:**
1. **When Required:** No land clearing shall be initiated; the excavation for any building or structure shall not be commenced; no building shall be erected,

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altered, moved or structural alterations, including but not limited to porches, decks, or terraces, initiated until a land use permit has been issued.

2. **Expiration of Permit:** If the work authorized by any land use permit has not commenced within six (6) months of the date of issuance, or if the work is suspended or abandoned for a period of six (6) months after the commencing of work, said permit shall expire. Further, if the work authorized by any land use permit has not been completed within two (2) years of the date of issuance, said permit shall expire. Before voidance is actually declared, the Zoning Administrator shall notify the applicant of such voiding action by sending a notice to the applicant at the address indicated on the permit application at least ten (10) days before such voidance is effective. The permit shall be renewable upon reapplication and upon payment of the original fee, subject to the provisions of all ordinances in effect at the time of renewal.
3. **Revocation:** 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 provisions of this Ordinance, or in the case of any false statement or misrepresentation made in the application. The owner or his agent shall be notified of such revocation in writing. Upon such revocation, all further construction activities and usage shall cease upon the site, other than for the purpose of correcting the violation.

Cancellation of a permit issued for a special land use, planned unit development or variance shall not occur before a hearing by the body that granted the permit. The Zoning Administrator may issue a stop work order to halt all construction activities and usage pending a decision on cancellation of said permit.

4. **Fees:** Fees for the review of development proposals, inspections and the issuance of permits or certificates required under this Ordinance shall be deposited with the Township Clerk in advance of processing any

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application or issuance of any permit. The amount of such fees shall be established by the Township Board by resolution and shall cover the cost of inspection and supervision resulting from the enforcement of this Ordinance. Such fees may include, but are not limited to, all costs associated with conducting a public hearing or inspection, including the newspaper notice, postage, photocopying, staff time, Planning Commission, Township Board and/or Zoning Board of Appeals time, mileage, and any costs associated with reviews by qualified professional planners and/or engineers. Such fees may be collected in escrow with any unexpended balance returned to an applicant according to the procedure described below:

- a. The escrow shall be used to pay the professional fees of engineers, community planners, and any other professionals whose expertise the Township Board values, to review the proposed application and/or site plan of an applicant. Professional review shall result in a report to the Township indicating the extent of conformance or nonconformance with this Ordinance and to identify any problems that may create a threat to public health, safety or the general welfare. Mitigation measures or alterations to a proposed design may be identified where they would serve to lessen or eliminate identified impacts. The applicant will receive a copy of any professional review contracted for by the Township and a copy of the statement of expenses for the professional services rendered.
- b. No application for approval for which an escrow fee is requested will be processed until the escrow fee is deposited with the Township Clerk. The amount of the escrow fee shall be established based on an estimate of the cost of the services to be rendered by the professionals contacted by the Zoning Administrator. The applicant is entitled to a refund of any unused escrow fees at the time a permit is either issued or denied in response to the applicant's request.
- c. If actual professional review costs exceed the amount of an escrow, the applicant shall pay the balance due prior to receipt of any land

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use permit or other permit issued by the Township in response to the applicant's request.

5. **Issuance:** Whenever the buildings, structures, and uses as set forth in any application are in conformity with the provisions of the Ordinance, or a variance granted by the Zoning Board of Appeals, the Zoning Administrator shall issue the appropriate permit. In any case where a permit is refused, the reasons shall be stated in writing to the applicant.
  
6. **Relation to Nonconforming Uses:** It shall not be necessary for an owner of a legal nonconforming structure or use, existing on the effective date of this Ordinance to obtain a land use permit in order to maintain its legal, nonconforming status. However, no nonconforming building, structure, or use shall be renewed, changed, or extended pursuant to Article XIX until a land use permit has been issued by the Zoning Administrator. In such cases the permit shall state specifically how the nonconforming building, structure, or use differs from the provisions of this Ordinance.
  
7. **Withholding Permit:** The Zoning Administrator may withhold any land use permit pending verification that an applicant has received required county, state or federal permits, including but not limited to, septic and water well permits, soil erosion and sedimentation control permits, wetlands permits, floodplain, culvert, driveway or building permits. Likewise, wherever this Ordinance authorizes permit approval by the Planning Commission or Township Board, the Planning Commission or Township Board may condition final approval of the requested development activity upon the receipt of any of the above mentioned county, state or federal approvals and/or direct the Zoning Administrator not to issue a land use permit until said permits from other agencies have been obtained.
  
8. **Performance Guarantee:** A performance guarantee may be required as a condition to the issuance of any land use permit in order to insure conformance with the requirements of this Ordinance. (See Section 4.06.)

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9. **Certificate of Zoning Compliance:** No structure or use shall be occupied without first receiving a certificate of zoning compliance. A certificate of zoning compliance shall be issued by the Zoning Administrator following an inspection that confirms that all the requirements of the previously issued land use permit and/or this Ordinance have been met. For structures that are within 5' of the required setback, a foundation survey shall be submitted prior to issuing a certificate of compliance.
  10. **Certificate of Occupancy:** A certificate of occupancy shall be issued by the Livingston County Building Department following an inspection that confirms that all requirements of the Livingston County Building Code have been met. A certificate of occupancy shall have effect only if the use or structure has been issued a certificate of zoning compliance.
- D. **Land Use Permit for Structures Not Requiring Site Plan Review:** An application for a land use permit for a land use not requiring site plan review shall be considered for approval by the Zoning Administrator when said application contains the following plot plan information drawn to scale:
1. Property lines, including dimensions and acreage of the parcel or lot.
  2. Location of all proposed and existing structures, including driveways and fencing.
  3. Dimension of required setbacks.
  4. Any other information necessary to insure compliance with this Ordinance.
- E. **Inspections:** The Zoning Administrator shall inspect the site three times: prior to the beginning of construction; following footing installation, and at the time of final inspection to certify zoning compliance. For structures that are within 5' of the

required setback, a foundation survey shall be submitted prior to issuing a certificate of compliance.

**Section 4.04            Violations**

- A.    **Violations are Nuisances Per Se:** Violations of any provisions of this Ordinance are declared to be nuisances per se.
  
- B.    **Notice of Violation:** The Zoning Administrator shall inspect each alleged or apparent violation. Whenever the Zoning Administrator determines that a violation of this Ordinance exists, said Zoning Administrator shall issue a Notice of Violation, in writing, which specifies all circumstances found to be in violation.
  
- C.    **Service of Notice:** Such notice shall be directed to each owner of, or a party in interest in whose name the property appears on the last local tax assessment records. All notices shall be served upon the person to whom they are directed personally, or in lieu of personal service, may be mailed by certified mail, return receipt requested, addressed to such owner or party in interest at the address shown on the tax records.
  
- D.    **Violation Correction Period:** All violations shall be corrected within a period of fifteen (15) days after the violation notice is issued. Should a violation not be corrected within this time period the Zoning Administrator shall notify the owner, or party of interest in writing, of the time and place of a hearing to be held before the Township Board on the conditions causing the notice of violation. At said hearing the person to whom the notice is addressed shall have the opportunity to show cause why said violation should not be ordered to be corrected or why said action would cause an undue hardship.
  
- E.    **Hearing Before Township Board:** The Township Board shall take testimony of the Zoning Administrator, the owner of the property, and any other interested party or witness. Following the hearing, the Township Board shall make written findings as to the nature and extent of the violation, if any, and extenuating circumstances, if any. The Township Board may extend the time by which the

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violation(s) must be corrected for a period not to exceed six (6) months. However, the Township Board shall not allow such violations to exist longer than this period.

- F. **Legal Action:** If the owner or party in interest fails to appear, or neglects to correct the violation within the time period specified by the Township Board, the Township Board shall transfer a report of their findings to the Township Attorney recommending that the appropriate action be taken. The Township Attorney may then initiate prosecution proceedings. If the threat to public health and or safety necessitates immediate action, this procedure may be circumscribed and the Township may initiate injunctive action in Circuit Court or any such other remedy provided by law. (See Section 4.05.)

### Section 4.05 Penalties and Remedies

- A. **Civil Law:** The clearing of land, the excavation for any building shall not be commenced, or any building, structure or use constructed, altered, moved or maintained in violation of the provisions of this Ordinance or in violation of a permit or approval issued by a body or official under this Ordinance and such is hereby declared to be a nuisance per se.
- B. **Criminal Law:** Violations of the provisions of this Ordinance or failure to comply with any of its requirements, including violations or conditions and safeguards established in connection with variances, approved site plans, special land uses, planned unit developments, land use permits, temporary land use permits, or other authorizations under this Ordinance, shall constitute a misdemeanor. Any person who violates this Ordinance or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than five hundred dollars (\$500) or imprisoned for not more than ninety (90) days, or both, and in addition, shall pay all costs and expenses involved in the case. Each day such violation continues shall be considered a separate offense.
- C. **Remedies:** The Township Board may institute injunction, mandamus, abatement or other appropriate proceedings to prevent, enjoin, abate or remove any violations of this Ordinance. The rights and remedies provided herein are both

civil and criminal in nature. The imposition of any fine, or jail sentence or both shall not exempt the violator from compliance with the provisions of this Ordinance.

**Section 4.06 Performance Guarantees for Compliance**

- A. **Requirements:** In authorizing any land use permit, the body or official which approves the respective request, as designated by this Ordinance, may require that a performance guarantee be furnished: 1) to insure compliance with the requirements, specifications and conditions imposed with the grant of such approval, permit or variance; 2) to insure the discontinuance of a temporary use by a stipulated time; and, 3) to provide sufficient resources for the Township to complete required improvements or conditions in the event the permit holder does not.
- B. **Improvements Covered:** Improvements that shall be covered by the performance guarantee include, but are not necessarily limited to: streets and other roadways, utilities, fencing, screening, landscaping, common open space improvements, lighting, drainage, and sidewalks. A performance guarantee shall meet the following requirements:
1. **Form of Guarantee:** The performance guarantee shall be in the form of cash, certified check, irrevocable bank letter of credit, or similar instrument acceptable to the Township Clerk, which names the property owner as the obligor and the Township as the obligee.
  2. **Time when Required:** The performance guarantee shall be submitted at the time of issuance of the permit authorizing the activity or the project. If appropriate, based on the type of performance guarantee submitted, the Township shall deposit the funds in an interest bearing account in a financial institution with which the Township regularly conducts business.
  3. **Amount:** The amount of the performance guarantee shall be sufficient to cover the estimated cost of the improvements or conditions, including any

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legal and engineering fees incurred by the Township. Additional guidelines for establishing the amount of a performance guarantee may be prescribed by resolution of the Township Board. If none are specified or applicable to the particular use or development, the Township Board shall by resolution establish a guideline, which it deems adequate to deal with the particular problem while ensuring the protection of the Township and its inhabitants.

- C. **Return of Performance Guarantee:** The Township Board, upon the written request of the obligor, and pursuant to the procedure in the next subsection, shall rebate portions of the performance guarantee upon determination that the improvements for which the rebate has been requested have been satisfactorily completed. The portion of the performance guarantee to be rebated shall be in the same amount as stated in the itemized cost estimate for the improvement, minus any legal and engineering fees incurred.
- D. **Withholding and Partial Withholding of Performance Guarantee:** As required improvements are completed, or when all of the required improvements have been completed, the obligor shall send written notice to the Township Clerk of completion of said improvements. Thereupon, the Zoning Administrator shall inspect all of the improvements and shall transmit recommendation to the Planning Commission and Township Board indicating either approval, partial approval, or rejection of the improvements or conditions with a statement of the reasons for any rejections. If partial approval is indicated, the cost of the improvement or condition rejected shall be set forth.
1. The Planning Commission, or in the case of a planned unit development, the Township Board, shall either approve, partially approve or reject the improvements or conditions upon the written recommendation of the Zoning Administrator and shall notify the obligor in writing of the action of the Planning Commission or Township Board within thirty (30) days after receipt of the notice from the obligor of the completion of the improvements. Where partial approval is granted, the obligor shall be released from liability pursuant to relevant portions of the performance guarantee, except for that portion adequately sufficient to secure provision of the improvements not yet approved.

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2. Should installation of improvements begin and fail to meet full completion based on the approved site plan, or if the project area is reduced in size and improvements are only partially completed or conditions only partially met, the Township may complete the necessary improvements or conditions itself or by contract to an independent developer, and assess all costs of completing the improvements or conditions against the performance guarantee. Any balance remaining shall be returned to the applicant.
- E. **Performance Guarantee for Razing of Building:** A performance guarantee may be required prior to the razing or demolition of principal buildings and accessory structures having more than one hundred forty-four (144) square feet of floor area. The guarantee shall be conditioned on the applicant completing the razing within such reasonable period as shall be prescribed in the permit and complying with such regulations as to health and safety as the Zoning Administrator, Fire Chief or the Township Board may from time to time prescribe, including filling of excavations and proper termination of utility connections.
- F. **Record of Performance Guarantees:** The Zoning Administrator shall maintain a record of authorized performance guarantees.

### Section 4.07 Administrative Escrow Accounts

Marion Township may, at its discretion, require an applicant to post a cash Escrow Account in an amount to be established by the Marion Township Board for any proposed development project that may place an undue burden and/or impact on the Township's infrastructure and community services, such as, but not necessarily limited to public water and sewer, roads, storm drainage, schools, police and fire protection, etc. Funds deposited into the Escrow Account will be used to reimburse the Township for costs associated with consideration and review of the proposed project including, but not limited to costs for committee meetings, additional public hearings, review by the Township planner, Township engineer, and Township attorney. The Planning Commission and / or the Township Board, in its discretion, may require that additional funds to cover such costs be deposited whenever it determines there is a need for the deposit of additional escrow funds. Any excess funds remaining in the Escrow Account following a final decision by the Township will be returned to the applicant without interest. No building permit or final approval shall be granted until all Escrow funds necessary to cover all expenses have been paid in full.

**ARTICLE V: ZONING BOARD OF APPEALS**

**Section 5.01 Intent and Purpose**

The purpose of this Article is to ensure that the objectives of this Ordinance are fully and equitably achieved, that a means be provided for competent interpretation of this Ordinance, that flexibility be provided for in the strict application of this Ordinance, that the spirit of the Ordinance be observed, public safety secured, and substantial justice done.

**Section 5.02 Membership; Appointment of Members; Terms of Office; Removal**

- A. **Membership:** A Zoning Board of Appeals, first established by the Zoning Ordinance adopted January 11, 1977, is hereby retained in accordance with the Michigan Zoning Enabling Act, PA 110 of 2006, as amended. The Zoning Board of Appeals shall consist of five (5) members. One member of the regular members of the Zoning Board of Appeals shall be a member of the Planning Commission. The remaining regular members, and any alternate members, shall be appointed by the Township Board from the electors residing in the Township outside of incorporated cities and villages. A member of the Township Board may serve on the Zoning Board of Appeals but shall not serve as the chairperson. The Zoning Administrator or other employee or contractor of the Township Board may not serve on the Zoning Board of Appeals.
- B. **Appointment of Members:** The Township Board may appoint not more than two (2) alternate members for the same term as regular members of the Zoning Board of Appeals. No alternate member may be either a member of the Township Board or the Planning Commission. The alternate members may be called as needed, on a rotating basis, to sit as regular members of the Zoning

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Board of Appeals in the absence of a regular member if the regular member is absent from or will be unable to attend one (1) or more consecutive meetings of the Zoning Board of Appeals. An alternate member may also be called to serve in the place of 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. An alternate member shall serve on a case 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 Office:** Members shall be appointed for three (3) year terms except for members serving because of their membership on the Planning Commission or Township Board, whose terms shall be limited to the time they are members of those bodies. A successor shall be appointed not more than one (1) month after the term of the preceding member has been expired. Vacancies for unexpired terms shall be filled for the remainder of the term.
  
- D. **Removal:** A member of the zoning board of appeals may be removed by the legislative body for misfeasance, malfeasance, or nonfeasance in office upon written charges and after public hearing. A member shall disqualify himself or herself from a vote in which the member has a conflict of interest. Failure of a member to disqualify himself or herself from a vote in which the member has a conflict of interest constitutes malfeasance in office.

### Section 5.03      Organization

- A. **Rules of Procedure:** The Zoning Board of Appeals shall adopt rules of procedure for the conduct of its meetings and the implementation of its duties. The Zoning Board of Appeals shall annually elect a chairperson, a vice chairperson, and a secretary.
  
- B. **Meetings and Quorum:** Meetings of the Zoning Board of Appeals shall be held at the call of the chairperson and at such other times as the Zoning Board of Appeals' Rules of Procedure may specify. The Zoning Board of Appeals shall not conduct business unless a majority of the regular members of the Zoning Board

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of Appeals are present. All meetings shall be open to the public and conducted pursuant to the requirements of the Open Meetings Act, PA 267 of 1976.

- C. **Oaths and Witnesses:** The chairperson or, in his or her absence, the acting chairperson may administer oaths and compel the attendance of any witness in order to ensure a fair and proper hearing.
  
- D. **Records:** The minutes of all meetings shall contain the grounds for every determination made by the Zoning Board of Appeals including all evidence and data considered, all findings of fact and conclusions drawn by the Zoning Board of Appeals for every case, along with the vote of each member and the final ruling on each case. The Zoning Board of Appeals shall file its minutes in the office of the Township Clerk.
  
- E. **Legal Counsel:** An attorney for the Township shall act as legal counsel for the Zoning Board of Appeals pursuant to procedures established by the Township Board.

### Section 5.04 Jurisdiction

The Zoning Board of Appeals shall act upon questions as they arise in the administration of the Zoning Ordinance. The Zoning Board of Appeals shall perform its duties and exercise its powers as provided in the Michigan Zoning Enabling Act, PA 110 of 2006, as amended. The Zoning Board of Appeals shall not have the power to alter or change the zoning district classification of any property, nor make any change in the terms or intent of the Zoning Ordinance, but does have the power to act on those matters for which the Zoning Ordinance provides an administrative review, interpretation, variance, or temporary land use permit. Within this capacity the Zoning Board of Appeals may reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination of any Township official or the Planning Commission, or any official administering or enforcing the provisions of the Zoning Ordinance as set forth in Section 5.05 and may issue or direct the issuance of a permit.

**Section 5.05      Authorized Appeals**

The Zoning Board of Appeals shall hear the following specified categories of appeals in accordance with the following standards:

- A.    **Administrative Review:** The Zoning Board of Appeals shall hear and decide appeals where it is alleged by the appellant that there is an error in any order, requirement, permit, decision or refusal made by any Township official or by the Planning Commission in administering or enforcing the provisions of the Zoning Ordinance.
  
- B.    **Interpretation of the Ordinance:** The Zoning Board of Appeals shall hear and decide upon requests to:
  - 1.    Interpret the provisions of the Zoning Ordinance when it is alleged that certain provisions are not clear or that they could have more than one meaning. In deciding upon such request, the Zoning Board of Appeals shall ensure that its interpretation is consistent with the intent and purpose of the Zoning Ordinance, the Article in which the language in question is contained, and all other relevant provisions in the Zoning Ordinance.
  
  - 2.    Determine the precise location of the boundary lines between zoning districts when there is dissatisfaction with a decision made by the Zoning Administrator. (See Section 7.04.)
  
  - 3.    Classify a use that is not specifically mentioned as a part of the use regulations of any zoning district so that it conforms to a comparable permitted or prohibited use, in accordance with the purpose and intent of each district. Where there is no comparable permitted or prohibited use, the Zoning Board of Appeals shall so declare, the effect being that use is not permitted in the Township until or unless the text of the Zoning Ordinance is amended to permit it.

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4. Determine the parking space requirements of any use not specifically mentioned by classifying it with one of the groups listed in Article XIV by an analysis of the specific needs. If no comparable use is found, the Zoning Board of Appeals shall so inform the petitioner and indicate that the parking space requirements will have to be established by amendment of the Zoning Ordinance.

### C. Variances

The ZBA shall have the power to authorize, upon appeal, specific variances from such dimensional requirements as lot area and width regulations, building height and square foot regulations, yard width and depth regulations, such requirements as off-street parking and loading space, and sign regulations and other similar requirements as specified in the ordinance. The existence of nonconforming structures or buildings on other lands, or in other districts, shall not create a precedent, or be the basis for a variance. To obtain a variance, the applicant shall submit sufficient information to enable the Board of Appeals to determine that a practical difficulty exists, if applicable, by explaining:

1. ***That the restrictions of the Township Zoning Ordinance would unreasonably prevent the owner from using the property for a permitted use.***
2. That the variance would do substantial justice to the applicant and a lesser relaxation than that requested would not give substantial relief to the owner of the property.
3. That the request is due to the unique circumstances of the property.
4. That the alleged hardship has not been created by a property owner.
5. The difficulty shall not be deemed solely economic.

Following review and consideration of the above and in order to grant a variance, the Board of Appeals:

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Shall find that the reasons set forth in the application and as explained above justify the granting of the variance and that it is the minimum variance that will make possible the reasonable use of the land, building or structure; and

Shall further find that the granting of the variance will be in harmony with the intent of this ordinance and will not be injurious to the neighborhood or otherwise be detrimental to the public interest.

The ZBA shall not approve an application for a variance unless it has found positively that a practical difficulty exists under the five preceding criteria. If any criteria does not apply, the Zoning Board of Appeals shall justify why it does not apply.

Use variances are strictly prohibited. A variance shall not permit the establishment, within any district, of any use, which is not permitted by right, special use permit or by a temporary land use.

- D. **Conditions:** In granting any variance, the Zoning Board of Appeals may prescribe appropriate conditions and safeguards in conformity with this Ordinance (see Section 6.15.) Violations of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this Ordinance and shall automatically invalidate the variance.

E. **Approval Period**

The decision of the Zoning Board of Appeals shall expire after one year unless a building permit for the construction is obtained and construction is started in accordance with the terms of the permit and the requirements of the Zoning Board of Appeals. The Zoning Board of Appeals may grant no more than one extension, for up to one year, provided the applicant demonstrates that they have been diligently working toward completion and the delay is due to conditions beyond their control.

- F. **Rehearing:** No rehearing on an application denied by the Zoning Board of Appeals shall be reconsidered except upon the grounds of newly discovered

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evidence or a falsehood previously relied upon which is found upon inspection by the Zoning Board of Appeals to be valid. A rehearing shall be processed in the same manner as the original application, including payment of the required fee. A request for rehearing shall be made on behalf of the applicant by either the Township Board or Zoning Board of Appeals within eight (8) days. No land use permit shall be granted which relies upon a variance before eight (8) days following the decision of the Zoning Board of Appeals have expired.

- G. **Reapplication:** After eight (8) days following a decision by the Zoning Board of Appeals, no application for a variance, Ordinance interpretation, or appeal which has been denied, wholly or in part, by the Zoning Board of Appeals shall be resubmitted for a period of one (1) year from the date of the last denial, except on proof of changed conditions found upon inspection by the Board to be valid.

### Section 5.06 Appeal Procedures

- A. **Notice of Appeal:** Appeal requests for Ordinance interpretation and requests for variances may be made to the Zoning Board of Appeals by any person aggrieved, or by an officer, or department, board, or bureau of the state or of the Township, by filing a written Notice of Appeal with the Township Clerk on forms established for that purpose and accompanied with such information as is necessary to decide such request. At a minimum, eight (8) copies of the information required to be submitted for a land use permit (either a plot plan or site plan) in Section 4.03.D. shall be submitted. Upon receipt of a Notice of Appeal, the Township Clerk shall promptly transmit the records concerning the appealed action, as well as any related information to the chairperson of the Zoning Board of Appeals. Any appeal from the ruling of the Zoning Administrator concerning the enforcement of the provisions of this Ordinance shall be filed within thirty (30) days after the date of the Zoning Administrator's decision or the decision shall be final.
- B. **Stay:** An appeal shall stay all proceedings in furtherance of the action appealed from unless the Zoning Administrator certifies to the Zoning Board of Appeals after notice of appeal has been filed with he or she, that by reason of facts stated in the certificate a stay would, in the Zoning Administrator's opinion, cause

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imminent peril to life or property, in which case the proceedings shall not be stayed otherwise than by a restraining order, issued by the Zoning Board of Appeals or by a court of record.

- C. **Hearing:** Upon receipt of a Notice of Appeal or of an application for Ordinance interpretation, or variance request, the chairperson of the Zoning Board of Appeals shall schedule a reasonable time and date for a public hearing and give notice as provided in section 103 of PA 110 of 2006, as amended.

Upon receipt of a Notice of Appeal seeking an interpretation of the Zoning Ordinance, or an appeal of an administrative decision, a notice stating the time, date, and place of the public hearing shall be published in a newspaper of general circulation within the Township and shall be sent to the person requesting the interpretation not less than fifteen (15) days before the public hearing.

If the request for an interpretation or appeal of an administrative decision involves a specific parcel, written notice stating the nature of the interpretation request and the time, date, and place of the public hearing on the interpretation request shall be sent by first-class mail or personal delivery to all persons to whom real property is assessed within three hundred (300) feet of the boundary of the property in question and to all occupants of all structures within three hundred (300) feet of the boundary of the property in question. If a tenant's name is not known, the term "occupant" may be used.

- D. **Appearance:** At the hearing, a party may appear in person or by agent or attorney. The Zoning Board of Appeals may recess such hearing from time to time, and, if the time and place of the continued hearing are announced at the time of adjournment, no further notice shall be required.
- E. **Decision:** The Zoning Board of Appeals shall render its decision within sixty (60) days of filing of a Notice of Appeal, or application for Zoning Ordinance interpretation or variance, unless in the opinion of Zoning Board of Appeals, an extension of time is necessary to review information pertinent to making the decision. The concurring vote of a majority of the members of the Zoning Board

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of Appeals shall be necessary to reverse an order, requirement, decision, or determination of the administrative official or body, to decide in favor of the applicant on any matter upon which the Zoning Board of Appeals is required to pass under the Zoning Ordinance or to grant a variance in the Zoning Ordinance.

- F. **Fee:** A fee as established by the Township Board shall be paid to the Township Clerk at the time the petitioner files an application with the Zoning Board of Appeals. The purpose of such fee is to cover, in part, the necessary advertisements, investigations, hearing records and other expenses incurred by the Board in connection with the appeal. No fee shall be charged if the Township is the moving party.
- G. **Performance Guarantee:** In authorizing any variance, or in granting any temporary dwelling permits, the Zoning Board of Appeals may require that a cash deposit, certified check, irrevocable bank letter of credit, or similar instrument acceptable to the Township covering the estimated cost of conditions or improvements associated with a project for which zoning approval is sought, be deposited with the Township Clerk to insure faithful conformance with the conditions or completion of the improvements. Such performance guarantee shall be collected and returned pursuant to the requirements of Section 4.06.

### Section 5.07      Review By Circuit Court

The decision of the Zoning Board of Appeals shall be final. A party aggrieved by the decision may appeal to the circuit court for Livingston County as provided for in PA 110 of 2006, as amended.

## ARTICLE VI:      GENERAL PROVISIONS

### Section 6.01      Intent and Purpose

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The following general provisions establish regulations which are applicable in all zoning districts unless otherwise indicated.

### Section 6.02 Keeping of Animals

- A. **Wild animals:** No wild animal nor vicious animal shall be kept permanently or temporarily in any district in the Township except in a bona fide public zoo or bona fide licensed circus, or by a person licensed by the State of Michigan to temporarily harbor and treat injured animals or animals designated as belonging to an endangered species until release into a permanent habitat is possible.
- B. **Livestock:** The raising and keeping of livestock and/or small animals such as poultry, rabbits, and goats may be conducted on a lot of two (2) acres or larger in the RR, Rural Residential and SR, Suburban Residential districts. Further, all such raising and keeping or killing and dressing of poultry and animals processed upon the premises, shall be for the use or consumption by the occupants of the premises.
1. Animals shall be owned and managed by the occupants of the premises.
  2. The occupants of the premises shall keep the odor, sounds and movement of the animals from becoming a nuisance to adjacent properties.
  3. No storage of manure, odor or dust producing materials or use shall be permitted within one hundred (100) feet of any adjoining lot line.
  4. Animal density shall not exceed 1.4 animal units per acre, except for private stables as provided in Section 8.01.D.2 and Section 8.02.D.1.
- C. **Household pets:** The keeping of household pets, such as dogs, cats, and other animals generally regarded as household pets is permitted as an accessory use in any residential zoning district provided that the number of pets, except as provided below for dogs, does not exceed eleven (11). If more than five (5) dogs are kept as household pets, none of the dogs kept shall be counted as a household pet nor be considered a permitted accessory use but instead the owner must obtain special land use approval for a kennel as provided herein.

- D. **Kennels:** The keeping of more than five (5) dogs is subject to the requirements of Section 17.19—Kennels.

**Section 6.03            Essential Services**

Essential services shall be permitted as authorized and regulated by law and other ordinances of the Township, it being the intention hereof to exempt such essential services from the application of this Ordinance, except that essential services do not include public facilities separately regulated by Section 17.25 and communication towers regulated by Section 17.10.

**Section 6.04            Swimming Pools**

- A. **Classification:** A swimming pool shall be considered as an accessory building for the purposes of determining required yard spaces. If the swimming pool is enclosed by a roof, the enclosure area shall be included in the calculation of lot coverage.
  
- B. **Application:** The application for a land use permit to erect a swimming pool shall include the name of the owner, the manner of supervision of the pool, a plot plan, and location of adjacent buildings, fencing, gates, and other detailed information affecting construction and safety measures deemed necessary by the Zoning Administrator.
  
- C. **Fencing:** Yard areas with pools are to be fenced to discourage unsupervised access.
  - 1. Such fencing is to be a minimum of four (4) feet high, and equipped with a self-closing and self-latching gate.
  
  - 2. Latching devices are to be located at a minimum height of three (3) feet

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above the ground.

3. Such fencing may be omitted where building walls without doorways abut the pool area, provided that the entire perimeter of the pool area is secured.
  4. Above ground swimming pools with sides four (4) feet or more above grade, do not require fencing but do require a removable access ladder that lifts for safety.
- D. **Placement:** No swimming pool shall be located in any easement.
- E. **Setbacks:** No swimming pool shall be located in any front yard.
- F. **Lighting:** No lights shall be erected, operated or maintained in connection with a swimming pool in such a manner as to create an annoyance to surrounding properties.
- G. **Overhead Wiring:** Service drop conductors and any other open overhead wiring shall not be above a swimming pool.

### Section 6.05 Moving Buildings

No existing building or other structure within or outside of the Township shall be relocated upon any parcel or lot within the Township unless the building design and construction are compatible with the general architectural character, design and construction of other structures located in the immediate area of the proposed site; the building and all materials therein are in conformity with the Building Code enforced in the Township; and the building or structure can be located upon the parcel and conform to all other requirements of the respective zoning district.

### Section 6.06 Temporary Uses and Buildings

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All temporary uses and buildings are permitted in all districts unless otherwise provided or otherwise limited herein. Temporary buildings not greater than three hundred (300) square feet in area and not to be used for dwelling purposes may be placed on a lot or parcel of record and occupied only under the following conditions as authorized by a temporary land use permit issued by the Zoning Administrator.

- A. **Fire Damage:** During renovation of a permanent building damaged by fire. The temporary building must be removed when repair of fire damage is complete, but in no case shall it be located on the lot or parcel for more than ninety (90) days.
  
- B. **New Construction:** Temporary buildings incidental to construction work, except single-family residences. Said temporary buildings shall be removed within fifteen (15) days after construction is complete, but in no case shall the building or structure be allowed for more than twelve (12) months, unless expressly authorized after petition to the Zoning Board of Appeals.
  
- C. **Churches and Schools:** Temporary building incidental to a church or school, provided that all wiring, plumbing, fire protection and exits are approved by the Fire Chief and Building Inspector, and by relevant state agencies.
  
- D. **Habitation of Accessory Buildings and Recreational Vehicles:** No garage, barn, other accessory building, or cellar, whether fixed or portable, shall be used or occupied as a dwelling. Recreational vehicles or motor homes may be occupied for a period not to exceed thirty (30) days in one (1) year unless in an approved recreational vehicle park or campground.
  
- E. **Garage Sales:** Garage sales, rummage sales, yard sales, moving sales, and similar activities shall be considered temporary uses within any residential zoning district subject to the following conditions:
  - 1. Any garage sale, rummage sale or similar activity shall be allowed without a temporary land use permit for a period not to exceed four (4) days within

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a six (6) month period. Such activities in operation for a period of time in excess of four (4) days shall require a temporary land use permit from the Zoning Administrator.

2. In no instance shall more than four (4) garage sales, rummage sales or similar activities be held in any one location within any twelve (12) month period.
- F. **Outdoor Display of Merchandise:** Outdoor display and sales of merchandise is permitted within the Highway Service District, but is limited to two (2) events per calendar year, not exceeding four (4) consecutive days, limited to only merchandise customarily sold on the premises by a permanently established business on that lot.
- G. **Temporary Real Estate Offices:** Temporary real estate offices are permitted within approved development projects. No cooking or sleeping accommodations shall be maintained. The permit shall be valid for not more than one (1) year, but is renewable. The office shall be removed upon completion of the development. A model home may be used as a temporary real estate office.
- H. **Auctions:** The public sale of property to the highest bidder shall be permitted for not more than five (5) days. No sales activity shall occur within thirty (30) feet of any road right-of-way.
- I. **Temporary Dwellings:** The following temporary dwellings may be permitted provided the proposed dwelling meets the intent and requirements of one of the following subsections.
1. **Emergency Housing:** For construction of a new single-family dwelling or when a dwelling is destroyed by fire, collapse, explosion, act of God, or acts of a public enemy to the extent that it is no longer safe for human occupancy, as determined by the Building Inspector, a temporary dwelling

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permit may be issued by the Zoning Administrator or Township Supervisor to allow a mobile home less than twenty (20) feet in width to be placed on the property upon the request of the owner. Said permit shall be in effect for no more than one (1) year, any extension must be approved by the Zoning Board of Appeals based upon a showing of good cause as to why an extension should be granted, who may grant the same for a period of not more than one (1) year during which time a permanent dwelling shall be erected on the property.

2. **Medical Reasons:** A person(s) may make application to occupy a mobile home as an accessory use to the principal dwelling if a medical condition exists such that the intended occupant requires continued supervision. A licensed physician, stating the nature of the disorder and specifying the level, shall attest to such medical condition and type of continued care needed by the patient. A temporary dwelling permit shall be granted if adequate evidence of the need for supervision exists. Such permit issued to the party with the medical condition is for the applicant's use only and is not transferable to any other owner or occupant. The permit shall expire in one (1) year, and an extension of one (1) year may be issued upon review and a finding that the original conditions exist. All temporary dwellings shall be located within two hundred (200) feet of the dwelling occupied by the person providing the continued supervision and no closer than thirty (30) feet to an abutting lot line.
  
3. **Conditions:** A temporary dwelling permit shall be granted provided the following conditions are met:
  - a. Evidence that the proposed location of the temporary dwelling will not be detrimental to property within three hundred (300) feet.
  
  - b. Proposed water supply and sanitary facilities have been approved by the Livingston County Health Department.

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- c. Proposed temporary dwelling unit meets the requirements of the Building Code in effect in Livingston County.
  - d. All applicable dimensional requirements within said district shall apply to temporary dwellings.
- J. **Performance Guarantee:** A performance guarantee shall be required in the form of cash or check and shall be deposited with the Township Clerk in an amount equal to the estimated cost of removing any temporary building and any associated legal fees. The Township Board shall set the amount of the performance guarantee. The applicant shall similarly sign an affidavit holding the Township harmless against any claim for damages if the Township were to subsequently use the performance guarantee to remove the temporary structure after its authorized period had expired and the applicant had failed to remove the temporary structure according to the terms established by the Township and/or had failed to remove the temporary structure upon notice by the Township to remove the structure. The performance guarantee shall be returned when all the terms and conditions of the temporary land use permit have been met and the temporary use or building has been removed.
- K. **Application:** A temporary land use permit may be approved, modified, conditioned, or denied by the Zoning Administrator. The Zoning Administrator may refer the application to the Planning Commission for a recommendation before issuance of the permit.
- L. **Permits:** A written temporary land use permit will be issued for all temporary uses and buildings if the use and/or building meets the terms and conditions hereof and shall contain the following information:
  - 1. The applicant's name.
  - 2. The location and effective dates of the temporary use or building.

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3. Conditions specified by which the permit was issued, such as:
  - a. use and placement of signs.
  - b. provision for security and safety measures.
  - c. control of nuisance factors.
  - d. submission of performance guarantee.
4. Signature of the Zoning Administrator on the permit.

### M. **Conditions of Approval:**

1. The nature and intensity of the temporary use and the size and placement of any temporary building shall be planned so that the temporary use or building will be compatible with existing development.
2. The parcel shall be of sufficient size to adequately accommodate the temporary use or building.
3. The location of the temporary use or building shall be such that adverse effects on surrounding properties will be minimal, particularly regarding the traffic generated by the temporary use or building.
4. Off-street parking areas are of adequate size for the particular temporary use or building and properly located and the entrance and exit drives are laid out so as to prevent traffic hazards and nuisances.

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5. Signs shall conform to the provisions of this Ordinance. (See Article XV, Section 15.02.)
  6. Any lighting shall be directed and controlled so as to not create a nuisance to neighboring property owners.
  7. The Zoning Administrator may impose conditions with the issuance of the permit which is designed to ensure compliance with the requirements of this Ordinance. The Zoning Administrator may revoke a permit at any time for nonconformance with the requirements of this Section, any conditions imposed by the Zoning Administrator or the permit issued thereunder.
  8. Permits which are renewable shall have an application filed for renewal at least fifteen (15) days prior to the expiration date of the current permit, except that applications for renewal or extension of a permit for less than fifteen (15) days may be applied for no later than three (3) days prior to the expiration date of the current permit.
- N. **Revocation:** Upon expiration or revocation of a temporary land use permit, the temporary use shall cease and all temporary buildings shall be removed from the parcel of land. A temporary land use permit may be revoked or modified by the Zoning Administrator upon a finding of any one of the following:
1. That circumstances have changed.
  2. That the temporary land use permit was obtained by misrepresentation or fraud.
  3. That one (1) or more of the conditions of the temporary land use permit have not been met; or,

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- 4. That the use is in violation of any statute, Ordinance, law, or regulation.
  
- O. **Appeal:** An appeal of a decision by the Zoning Administrator relative to denial of a temporary land use permit for a temporary use or renewal thereof may be taken to the Zoning Board of Appeals pursuant to Section 5.05 of this Ordinance.

**Section 6.07                      Accessory Uses and Structures**

Accessory buildings, structures and uses are permitted only in connection with and on the same lot with a principal building, structure or use, provided such buildings, structures and uses are incidental to the principal building or use and does not include any activity conducted as a livings quarters, except for farms or other uses otherwise permitted in this Ordinance that may be permitted on a separate lot in conjunction with the permitted activity, and shall be subject to the following regulations:

1.

<b>Zoning districts</b>	<b>Lot Size Based on Gross Lot Area</b>	<b>Maximum Square Footage of all Accessory Structures</b>
All single family residential districts	All parcels equal to or less than 1 acre in size	1,300 square feet
All single family residential districts	All parcels that are greater than 1 acre	These sizes are based on a .030 x parcel size calculation

- 2. An accessory structure, including carports which are attached to the principal building, shall comply in all respects with the requirements of this ordinance applicable to the principal building. Any covered or roofed structure, as an attachment between the accessory structure or carport and the main building,

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shall be considered a part of the main building, but shall not be considered habitable floor area.

3. Accessory buildings shall not be erected or allowed in any front yard, except for parcels larger than five acres providing no accessory building or structure is located closer than one hundred feet to the front property line or closer to the front property line than a principal building on any adjacent parcel of land or lot, whichever is greater.
4. Accessory buildings may be allowed in side yards providing they meet the minimum setbacks for the district in which it is located.
5. The maximum height for accessory buildings located on any parcels of land containing one acre of land or less or on any platted subdivision lot or site condominium building site shall not exceed thirty-five feet.
6. Accessory structures shall meet the minimum setbacks for the district in which it is located.
7. No accessory structure shall receive a certificate of zoning compliance prior to the principal structure receiving a certificate of zoning compliance.
8. No accessory structure shall be constructed prior to the approval of land use permit and the issuance of a building permit.
9. Accessory structures under two-hundred (200) square feet do not require a land use permit or building permit and are limited to two per parcel and must be behind the primary structure and screened from the public right-of-way. Accessory structures under 200 square feet and with a height no more than ten (10) feet above grade shall maintain a minimum five (5) foot side yard setback and five (5) foot rear yard setback. Accessory structures two-hundred (200) square feet and over and/or more than ten (10) feet above grade must meet the setback requirements of the zoning district in which they are located.
10. In no instance shall any accessory building be located within a dedicated easement right-of-way.

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11. An accessory building shall not project within the front yard when it is located on a corner lot except as provided in item 3 above.
12. Accessory structures greater than two-hundred (200) square feet shall have a minimum 4:12 roof pitch, except engineered steel structures may have minimum 3:12.
13. The use of cargo containers for storage shall only be permitted in HS and LI districts, subject to the following:
  - a) Containers shall be restricted to a location behind the front face of the building.
  - b) Containers shall not be stacked above the height of a single container.
  - c) Container storage areas that are visible from the public right-of-way or abut residentially zoned or used properties shall be screened in accordance with the standards set forth in this ordinance.

### **Section 6.08            Relationship of Buildings to Lots**

No more than one principal building may be permanently established on a single lot or parcel, unless otherwise specifically provided for elsewhere in this Ordinance as in the case of a hospital, condominium project, planned unit development or multiple-family development. More than one principal building on a lot or parcel may also be allowed in the Highway Service and/or Light Industrial Districts, subject to compliance with other applicable provisions in this Ordinance. A principal building and/or accessory building or structure may not straddle the property line of two or more lots or parcels even though under single ownership.

### **Section 6.09            Permitted Yard Encroachments**

The minimum yard size and setback requirements of this Ordinance are subject to the following permitted encroachments.

- A. Architectural elements of existing buildings such as cornices, eaves, gutters, chimneys, pilasters, outside stairways, fire escapes, and similar features that are necessary to the integrity of the building or the health and safety of the occupants shall be permitted to encroach upon a required yard no more than five (5) feet.

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- B. Attached terraces, patios, porches, and decks that are not covered with a roof shall be permitted to encroach upon a required yard provided that the deck or paved area is no closer than ten (10) feet from a side or rear lot line. However, if the yard proposed to be encroached upon abuts a public street or approved private road the principal structure setback shall be observed and no encroachment is permitted.
  
- C. Awnings may project into a required yard no more than five (5) feet.

### Section 6.10 Front Setback Reductions

Any required front setback in any residential district may be reduced below the minimum requirements when the average front setback of existing principal buildings within two hundred (200) feet of a proposed principal building are less than the minimum required, in which case the required minimum front setback shall be based on the established average.

### Section 6.11 Allocation of Lot Area and Configuration of Lots

- A. No portion of a lot can be applied more than once in complying with the provisions for lot area and setbacks.
  
- B. The depth of lots created after the effective date of this Ordinance shall not be more than four (4) times longer than their width, excluding flag lots. The 4:1 maximum lot depth to width ratio shall apply to the flag portion of a flag lot only in the case when the flag lot has less than one hundred (100) feet of road frontage. When a flag lot has one hundred (100) feet or more of road frontage, the maximum 4:1 lot depth to width ratio standard shall apply to the entire lot.

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- C. After the effective date of this Ordinance, no flag lots shall be created except for residential lots as provided below:
1. Only one (1) flag lot is allowed per parent parcel, in existence as of March 14, 1996, of four (4) acres or greater.
  2. A driveway leading to a dwelling unit on a flag lot shall not be located in an off-site easement but shall be fully located within the lot lines of the flag lot.
  3. The pole section of a flag lot (the narrow strip of land) providing access from the street to the dwelling unit on the flag lot shall be a minimum thirty (30) feet in width along the road frontage and throughout the length of the pole section of the flag lot.
  4. No pole section of a flag lot shall be longer than one thousand three hundred fifty (1,350) feet. No pole section of a flag lot shall be less than two hundred (200) feet.
  5. All driveways shall include a turn around area sufficient in size to accommodate local fire emergency vehicles.
- D. Lots created after the effective date of this Ordinance (March 14, 1996) shall also comply with the Township Land Division Ordinance and the Township Subdivision Control Ordinance, Ordinance #5.

### Section 6.12 Height Requirement Exceptions

The following are exempted from height limit requirements, provided that no portion of the excepted structure may be used for human occupancy:

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- A. Structures which are purely ornamental in purpose such as church spires, belfries, cupolas, domes, ornamental towers, flagpoles and monuments, but not to exceed seventy-five (75) feet in height.
- B. Necessary appurtenances to mechanical or structural functions, such as chimneys and smokestacks, water tanks, elevator and stairwell penthouses, ventilators, bulkheads, radio towers, masts and aerials, television antennas, fire and hose towers, wire transmission structures, cooling towers, or other structures where the manufacturing process requires a greater height, but not to exceed one hundred (100) feet in height.
- C. Structural extensions deemed necessary for appropriate building design such as cornices or parapet walls may extend a maximum of five (5) feet above the district's height limitation. Provided, further, that such structural extensions shall have no window openings.
- D. Public utility structures, but not including communication towers, except upon receipt of a special use permit.
- E. Agricultural buildings and structures, such as barns, silos, elevators and the like, but not to exceed one hundred (100) feet in height.
- F. Wind power electrical generating towers, but not to exceed seventy (70) feet in height including the wind turbine or blades at their maximum height, provided, however, the distance from the base of the tower to any lot line shall be 1 ½ times the height of the tower and no part of the wind power electrical generating system structure, including guy wire anchors, may extend within the required setbacks. Commercial wind power electrical generating towers shall only be allowed on parcels greater than 2 acres in size.

### Section 6.13      Landscaping, Fencing, Walls and Screens

The intent of this Section is to promote the public's health, safety, and general welfare by: minimizing noise, air, and visual pollution; improving the appearance of off-street parking and other vehicular use areas; requiring buffering between incompatible land uses; regulating the appearance of property abutting public rights-of-way; protecting and

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preserving the appearance, character, and value of the community and its residential neighborhood areas; preventing soil erosion and soil depletion; and promoting soil water retention.

- A. **Application:** These requirements shall apply to all uses for which site plan review is required under Article XVIII: Site Plan Requirements, and any other use so specified in this Ordinance. No site plan shall be approved unless said site plan shows landscaping, greenbelt buffers, and screening consistent with the requirements set forth herein.
1. Screening is the enclosure of an area by a visual barrier, which may include a landscape buffer, solid fencing, or other materials as specified in subsections B, C, D and H of this Section.
  2. Fencing is the enclosure of an area by the materials identified in subsections H and J of this Section. No land use permit is required to erect a fence on property with a dwelling unit, although the requirements of Section 6.13 J shall be met.
  3. Exceptions are provided in subsection I.
- B. **Screening Between Land Uses:** For any improvement that requires a site plan, screening shall be along all adjoining boundaries between any residential use or zone and any nonresidential use or zone. Further, a solid wall or fencing is to be located on the side and rear lot lines of any site within an industrial or commercial zone that abuts another residential zoning district or land use.

Either a landscape buffer, landscape berm, evergreen screen, or solid wall may be used as provided below, or when the distance between structures on adjoining lots is greater than twice the minimum setbacks would require, a fence meeting the requirements of subsection J may be required at the discretion of the Planning Commission. Proposed screening must totally block the view of areas

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to be screened. The Planning Commission retains the right to require a specific screening treatment, if the proposed screening is deemed ineffective or inadequate.

1. **Landscape Buffer:** A twenty-five (25) foot greenbelt shall be established along the side and rear development boundaries. A fifty (50) foot greenbelt shall be established adjacent to any public road right-of-way which is not located within the project. The required greenbelt areas shall be maintained in natural vegetation or landscaping planting to provide a visual buffer.
  - a. A minimum of one (1) deciduous tree (minimum 3 inch caliper) or evergreen tree (minimum height of 7 feet) shall be planted for each twenty (20) lineal feet or portion thereof of the required greenbelt length.
  - b. Two (2) shrubs shall be required for each fifteen (15) lineal feet of the greenbelt area. Shrubs shall not be less than twenty-four inches in height and/or be contained in not less than a one (1) gallon sized container upon planting.
2. **Landscape Berm:** An earthen berm at least three (3) feet in height with a two (2) foot wide crown and side slopes not exceeding a 3:1 slope ratio. Berm slopes shall be protected with sod, seed, shrubs or other ground cover. A minimum of one (1) tree per fifty (50) linear feet or portion thereof shall be planted on the berm. Required trees may be planted at uniform intervals, at random or in clusters. Eight (8) shrubs may be substituted per required tree.
3. **Evergreen Screen:** One (1) tree per twenty (20) linear feet. Required trees may be planted at uniform intervals, at random or in clusters. Said trees shall be of a minimum height of seven (7) feet upon planting.

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4. **Screening Wall:** Walls shall be designed and constructed to facilitate maintenance and not modifying natural drainage in such a way as to endanger adjacent property. Such walls shall be five (5) feet or more in height as measured on the side of the proposed wall having the higher grade, and shall be constructed on both sides with face brick, poured-in-place simulated face brick, precast brick panels having simulated face brick, stone, embossed or pierced concrete block, or other decorative masonry material.
  
5. **Fencing:** Solid board fences with wood posts not less than four (4) inches by four (4) inches and solid board cover not less than one (1) inch thick. Masonry piers may be substituted for wood posts. Posts or piers shall be spaced not more than eight (8) feet on center. The finished side of the wood shall face abutting properties.

Wrought iron, open mesh or slatted fencing, provided that the ratio of one (1) part open to six (6) parts of solid fencing is not exceeded.

- C. **Parking Lot Landscaping:** Separate landscaped areas shall be required either within or at the perimeter of parking lots. There shall be one (1) tree for every ten (10) parking spaces. A minimum distance of three (3) feet shall be established between any proposed tree and the backside of the curb or edge of the pavement.

A vertical screen no less than three (3) feet in height shall be provided to screen a parking lot from any adjacent road right-of-way, residential use, or residential zoning district.

In addition, in any parking lot containing more than fifty (50) spaces, at least five (5) percent of the total parking lot area shall be used for interior landscaping.

- D. **Greenbelt Buffers:**

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1. A strip of land with a minimum width determined by the front yard setback of its zoning classification shall be located between the abutting right-of-way of a public street, freeway, or major thoroughfare, and shall be landscaped with a minimum of one (1) tree not less than twelve (12) feet in height or a minimum caliper of two and one-half (2-1/2) inches (whichever is greater at the time of planting) for each thirty (30) lineal feet, or major portion thereof, of frontage abutting said right-of-way. The remainder of the greenbelt shall be landscaped in grass, ground cover, shrubs, and/or other natural, living, landscape material.
2. Access ways from public rights-of-way through required greenbelt buffers shall be permitted, but such access ways shall not be subtracted from the lineal dimension used to determine the minimum number of trees required unless such calculation would result in a violation of the spacing requirement set forth in this section.

### E. **Site Landscaping:**

1. In addition to any greenbelt buffer and/or parking lot landscaping required by this Section, ten (10) percent of the site area, excluding existing road rights-of-way, shall be landscaped.
2. Areas used for storm drainage purposes, such as unfenced drainage courses or retention areas in front or side yards, may be included as a portion of the required landscaped area not to exceed five (5) percent of the site area.

- F. **Additional Screening:** Unless otherwise specified or determined by the Planning Commission or Zoning Board of Appeals, fencing and screening is to be five (5) feet in height. Gateposts and other superstructures over site entrances and exits may be up to twelve (12) feet in height. Fencing and screening materials of a height greater than three (3) feet are not to be located within a required front setback or side setback adjacent to a street.

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1. Mechanical Equipment (this subsection does not apply to single-family residential uses, or to any use in an industrial land use category except if it abuts a residential area). When located outside of a building, support equipment including air conditioning and heating devices, water and gas meters, but not including plumbing or exhaust vents or chimneys, are to be screened to the height of the particular piece of equipment, as follows:
  - a. Roof-Mounted Equipment: To be screened by architectural features from the view of abutting streets and parcels.
  - b. Equipment at Grade: When located on the ground adjacent to a building, mechanical equipment is to be screened by landscaping, a solid wall or fencing from the view of the street or surrounding properties.
2. Outdoor Storage in Commercial and Industrial Districts: To be screened on all sides by a solid wall or fencing.
3. Trash Storage Areas: To be screened on all sides by a solid wall or fencing.
4. Public Utility Substations in any district: To be screened on all sides by a solid wall or fencing and landscaping.
5. Swimming Pools: See Section 6.04.
6. Loading Areas: Shall be fenced and screened whenever abutting a residential zoning district land use pursuant to the provisions of Section 14.05 and subsection C. above.

### G. Exceptions to Fencing and Screening Requirements:

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1. **Buildings Abutting Lot Lines:** Required screening or fencing may be omitted along any lot line where a building wall exists immediately abutting the lot line.
2. **Location Adjustment:** Where property line fencing or screening is required, the location may be adjusted so the fencing may be constructed at or within the setback line, provided the areas between the fence and the lot lines are landscaped, or in rural areas, retained in their natural vegetative state at the discretion of the Planning Commission.
3. **Existing Screening:** Any fence, screen, wall or hedge which does not conform to the provisions of this Section and which is legally existing at the effective date of this Ordinance may be continued and maintained, provided there is no physical change other than necessary maintenance and repair in such fence, screen, wall, or hedge except as permitted in other sections of this Ordinance.
4. **Modification:** The Planning Commission may recommend and/or the Township Board may decide that any of the requirements of this Section may be waived or modified through the site plan approval process. In order to modify the provisions of this article for specific site plan, the Township Board shall adopt a written finding that specifically identified characteristics of the site or site vicinity would make required fencing or screening unnecessary, or ineffective, or where it would impair vision at a driveway or street intersection.
5. **Zoning Board of Appeals:** The Zoning Board of Appeals may require or waive any fencing, screening, landscaping or buffering as may be provided for in this Section as a condition of a variance or other authorization in whatever manner necessary to achieve an identified public purpose. The Zoning Board of Appeals shall record the reason for the condition and clearly specify what is required in any approval granted.

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- H. **Barrier Fences:** Barrier fences containing barbed wire, electric charges or sharp materials at the top of a fence or wall less than five (5) feet in height are prohibited unless needed to protect the public safety and approved by the Planning Commission.
- I. **Fire Hazard:** No fence shall be approved which constitutes a fire hazard either of itself or in connection with the existing structures in the vicinity, nor which will interfere with access by the Fire Department in case of fire to buildings in the vicinity or which will constitute a hazard to street traffic or to pedestrians.
- J. **Lakefront Fences:** No fences shall be erected closer than five (5) feet to the ordinary high water mark of any lake or stream, nor be higher than five (5) feet in height. No lakefront fence shall be of a solid, obscuring variety closer than twenty (20) feet to the ordinary high-water mark.
- K. **Existing Vegetation:** Existing vegetation may be used to satisfy the requirements of this Section provided the following:
1. If existing plant material is labeled "to remain" on a site plan in order to fulfill the requirements of this Section, protective techniques such as, but not limited to, fencing or barriers shall be placed at the drip line around the perimeter of the plant material during construction. No vehicle or other construction equipment shall be parked or stored within the drip line of any plant material intended to be saved. Other protective techniques may be used provided the Township approves such techniques.
  2. In the event that healthy trees that are used to meet the minimum requirements of this Ordinance or those labeled "to remain" are cut down, destroyed, damaged, or excavated at the drip line, as determined by the Township, the Contractor shall replace them with trees that meet Ordinance requirements.

**L. Installation and Maintenance:**

1. All landscaping required by this Ordinance shall be planted prior to obtaining a Certificate of Occupancy or a performance guarantee will be secured pursuant to Section 4.06 for the amount of the cost of landscaping. The performance guarantee will be released only after the landscaping is completed.
2. All landscaping and landscape elements shall be planted, and earth moving or grading performed, in a sound workmanlike manner and according to accepted good planting and grading procedures.
3. The owner of property required to be landscaped by this Ordinance shall maintain such landscaping in a reasonably healthy condition, free from refuse and debris. All unhealthy and dead material shall be replaced within one (1) year of damage or death or the next appropriate planting period, whichever comes first. All landscaped areas shall be provided with a readily available and acceptable water supply.

**Section 6.14 Home Occupation**

The regulation of home occupations as provided herein is intended to secure flexibility in the application of the requirements of this ordinance. Home occupation is permitted as an accessory use to the principal residential use of a parcel; a zoning permit for such an occupation is not required. Such flexibility is not intended to allow the essential residential character of residential districts, in terms of use and appearance, to be changed by the occurrence of non-residential activities. Home occupations shall satisfy the following conditions (these regulations do not apply to farms):

- A. The home occupation shall be clearly secondary and incidental to the use of the dwelling as a place of residence, and shall not result in a change to the

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essential character of the premises including both the dwelling and yard areas. Home occupations shall be conducted in such a manner that, except as otherwise allowed by the provisions of this section, there is no external evidence of the home occupation operation except for the occasional visits by customers or clients numbering no more than ten (10) visits every seven (7) days.

- B. Accessory structures used for business purposes shall conform to Section 6.07 Accessory Buildings and Structures.
- C. Refuse generated by the home occupation shall be safely and properly disposed of in a manner in full compliance with all federal, state and other governmental requirements of any such materials.
- D. Home occupations shall not result in the creation of conditions that would constitute a nuisance to neighboring property owners and the township as a whole. Any machinery, mechanical devices, or equipment employed in the conduct of a home occupation shall not generate noise, vibration, radiation, odor, glare, smoke, steam, or other conditions not typically associated with the use of the dwelling for residential purposes.
- E. A resident of the dwelling on the parcel shall be actively and personally engaged in and responsible for all home occupation operations. No employees shall be permitted, other than members of the immediate family residing in the dwelling unit.
- F. All of the activities on the property related to the occupation, except horticultural, shall be carried on indoors including the storage of materials, goods, supplies, refuse and waste materials, equipment, vehicles, trailers or products related to the occupation.
- G. Traffic generated by the combined home and home occupation shall be no greater in volume than would normally be expected in a residential district, and such traffic shall be limited to passenger vehicles, delivery vans and similarly-sized vehicles. Any need for parking used by such home occupation shall be met off the street and motor vehicles may be parked in an existing driveway if it is of sufficient size. No additional off-street parking demand shall be created.

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- H. The home occupation shall be conducted within the dwelling unit, attached garage, or accessory building.
- I. The home occupation shall not occupy more than twenty-five (25%) percent of the total gross floor area of said residential dwelling including the basement.
- J. Storage of combustible, toxic or hazardous material associated with the home occupation shall be done in a manner in full compliance with all federal, state and other governmental requirements concerning the use, handling, transport, storage and disposal of any such materials.
- K. The home occupation shall comply with all applicable federal, state and local laws, including, but not limited to, laws regarding licensing, occupational health and safety, and the environment.
- L. Home occupation approval is not transferable with the sale, rental or lease of the dwelling unit.
- M. Art and music instruction shall be classified as a permitted home occupation subject to the standards of this ordinance.

### Section 6.15      Conditional Approvals

- A. **Criteria for Discretionary Decisions:** The Planning Commission, Zoning Board of Appeals, and Township Board may attach conditions to the approval of a site plan, special land use, planned unit development, variance or other discretionary approval. Such conditions shall be based upon standards in this Ordinance and may be imposed to:
  - 1. Ensure that public services and facilities affected by a proposed land use or activity will be capable of accommodating increased service and facility loads caused by the land use or activity.
  - 2. Protect the natural environment and conserve natural resources and energy.

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3. Ensure compatibility with adjacent uses of land.
  4. Promote the use of land in a socially and economically desirable manner.
- B. **Requirements for Valid Conditions:** Conditions imposed shall meet all of the following requirements:
1. Be designed to protect natural resources, the health, safety, and welfare and the social and economic well being of those who will use the land use or activity under consideration, residents and landowners immediately adjacent to the proposed land use or activity, and the community as a whole.
  2. Be related to the valid exercise of the police power, and purposes which are affected by the proposed use or activity.
  3. Be necessary to meet the intent and purpose of the Zoning Ordinance, be related to the standards established in the Ordinance for the land use or activity under consideration, and be necessary to ensure compliance with those standards.
- C. **Record of Conditions:** Any conditions imposed shall be recorded in the record of the approval action.
- D. **Subsequent Change of Required Conditions:** These conditions shall not be changed except upon the mutual consent of the approving authority and the property owner.

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- E. **Performance Guarantees:** Performance guarantees may be required to ensure compliance with conditions on discretionary decisions pursuant to the requirements of Section 4.06.

### Section 6.16 Environmental Performance Standards

- A. **Site Plans, Special Land Uses, and Construction Activities:** All site plans, special land uses, and construction activities shall conform to the provisions of this Ordinance and the regulations and standards of the following:
1. Published surface water drainage standards of the Livingston County Drain Commission.
  2. Applicable fire safety and emergency vehicle access requirements of the State Construction Code, State Fire Marshall and Local Fire Code.
  3. Livingston County Soil Erosion and Sedimentation Ordinance.
  4. Requirements of the Michigan Department of Public Health and the Livingston County District Health Department.
  5. Livingston County Building Department.
  6. Michigan Department of Environment, Great Lakes and Energy (EGLE) requirements for air or water quality protection, wetlands, stream crossings, fills in or near water bodies or in floodplains, and for waste disposal.
  7. All local, county, state and federal regulations related to loading/unloading, transport, storage, use and/or disposal of hazardous substances.

**B. Sensitive Lands:**

1. Where a portion of a parcel is characterized by wetlands, hydric soils, floodplains, or steep slopes (slopes with an 18 percent incline or greater), new development on the parcel shall occur on those buildable portions of the parcel void of such sensitive resources where reasonably feasible.
2. The Township shall not approve any land use that requires a county, state, or federal permit, until such permit has been obtained and satisfactory evidence has been submitted verifying the acquisition of the necessary permits.
3. The Township may require mitigation measures be taken to replace those resources disturbed or destroyed by a land use, or to otherwise lessen the impact of a new land use upon natural resources and sensitive areas.

**C. Grading and Filling:** In order to protect adjacent properties, public roads, public watercourses, and to provide for adequate drainage of surface water, the following rules shall apply to all construction activities requiring permits pursuant to this Ordinance.

1. **Flow Restrictions:** The final grade surface of ground areas surrounding a building or structure shall be designed and landscaped such that surface water flow away from the building or structure and is managed in a manner which avoids: increased flow onto adjacent properties or public roads, the erosion or filling of a roadside ditch, the blockage of a public watercourse or the creation of standing water over a private sewage disposal drainage field.
2. **Elevation Restrictions:** Filling a parcel of land with earth or other materials to an elevation above the established grade of adjacent

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developed land is prohibited without the expressed written approval of the County Drain Commissioner.

3. See also the requirements of Section 6.17.C.

### Section 6.17 Infrastructure and Concurrency Standards

#### A. Roadway Network:

1. No new land uses, except for unplatted single-family homes, or development requiring site plan review under this Ordinance shall be permitted which will reduce the level of service on adjacent roadways below the level of service (LOS) C, as indicated by a complete traffic impact study, as identified in the Marion Township Master Plan, until the roadway has been improved to avoid such a decrease in the level of service.
2. All developments for multiple-family site condominiums and planned unit developments shall have direct access to the following Livingston County public paved or unpaved portion roads in the Urban Residential, Suburban Residential, and Highway Service districts:
  - a. Howell Pinckney Road, D19
  - b. Howell Mason Road
  - c. State Road M-155
3. Provisions shall be made for safe and efficient egress and ingress to public streets and highways serving any development, which shall be designed to minimize congestion and interference with normal traffic flow.

**B. Traffic Impact Study**

1. Traffic impact studies shall be required as follows:
  - a. A Traffic Impact Assessment that evaluates current and future traffic operations at site access points shall be required for projects that could generate 50-99 directional trips during a peak hour.
  - b. A Traffic Impact Statement that evaluates current and future traffic operations at site access points and major signalized or non-signalized intersections in proximity to the site shall be required for any proposed development that would be expected to generate over one hundred (100) directional trips during the peak hour of the traffic generator or the peak hour on the adjacent streets, or over seven hundred fifty (750) trips in an average day. The exact study area of a Traffic Impact Statement shall be established by the township engineer.
2. Traffic Impact Statement or Assessment shall also be required where a traffic study is more than two (2) years old and roadway conditions have changed significantly (volumes increasing more than 2 percent annually); or for a change or expansion at an existing site where the increased land use intensity is expected to increase traffic by at least fifty (50) directional trips in a peak hour or result in at least 750 vehicle trips per day for the entire project.
3. The contents of the Traffic Impact Study shall include:
  - a. Illustrations and a narrative that describes the characteristics of the site and adjacent roadway system (right-of-way, functional classification, lane configuration, speed limits, any sight distance limitations, current traffic conflicts, etc.). This description should include surrounding land uses, expected development in the vicinity that could influence future traffic conditions, special site features, and a description of any committed roadway improvements. The study should define and justify the study area selected for analysis.
  - b. For a rezoning, a description of the potential uses that would be allowed, compared to this allowed under current zoning. For a site plan review, mobile home park, condominium project, a subdivision tentative preliminary plat, or specified special land uses, a description of factors such as the number and types of dwelling units, the gross and usable floor

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area, the number of employees and shift change factors. Intended phasing or future expansion should also be noted.

- c. Existing traffic conditions including existing peak-hour traffic volumes (and daily volumes if applicable) on street(s) adjacent to the site. Existing counts and levels of service for intersections in the vicinity that are expected to be impacted, as identified by the Planning Commission or its staff/consultants shall be provided for projects required a Traffic Impact Statement. Traffic count data shall be collected using accepted practices and shall not be over one (1) year old.
- d. The traffic study shall include traffic generated by other projects in the vicinity that have been approved or are under consideration.
- e. For any project with a completion date beyond one (1) year at the time of the traffic study, the analysis shall also include a scenario analyzing forecasted traffic at date of completion along the adjacent street network using a forecast based on a network traffic assignment model (if available), historic annual percentage increases and/or future development in the area that has been approved.
- f. Forecasted trip generation of the proposed use for the a.m. (if applicable) and p.m. peak hours and average day. The forecasts shall be based on the data and procedures outlined in the most recent edition of Trip Generation published by the Institute of Transportation Engineers (ITE). The applicant may use other commonly accepted sources of data or supplement the standard data with data from at least three (3) similar projects in Michigan, including actual trip generation data (a.m. and p.m. peak hours and average day, in the form of actual hourly directional driveway counts, hourly transaction data, or other method deemed acceptable by the township) for local or national chains and franchises. The township may require inclusion of actual data for local or national chains and franchises in the study.
- g. Any trip reduction for pass-by trips, transit, ride sharing, other modes, internal capture rates, etc., shall be based both on Internal Traffic Engineers findings and documented survey results acceptable to the township and applicable road agency. The community may elect to reduce the trip reduction rates used.
- h. For projects intended to be developed in phases, the trip generation by phase shall be described.
- i. Trip Distribution. The projected traffic generated shall be distributed (inbound v. outbound, left turn v. right turn) onto the existing street network to project turning movements at site access points, and nearby intersections where required. Projected turning movements shall be illustrated in the report. A description of the application of standard engineering procedures for determining the distribution should be provided (trip distribution model, market studies, counts at existing driveways, etc.).
- j. Level of service or “capacity” analysis at the proposed access points using

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the procedures outlined in the most recent edition of the Highway Capacity Manual published by the Transportation Research Board. For projects requiring a Traffic Impact Statement or Regional Traffic Analysis, before and after capacity analyses shall also be performed for all street intersections where the expected traffic generated at the site will comprise at least five percent (5%) of the existing intersection capacity, unless other intersections are identified by the township. Gap studies for unsignalized intersections shall be provided where applicable.

4. Qualifications of Preparer. The person responsible for the preparation of the study shall have a degree or specific professional training in the preparation of traffic impact studies. The preparer shall have at least three (3) years of recent experience in the preparation of traffic impact studies, provide evidence of ongoing experience and familiarity with the Highway Capacity Manual and other traffic operation evaluation techniques.
5. The requirement for a traffic impact study, or the specific study elements required, may be waived or modified by the Planning Commission based on input from township staff and consultants or a representative of the applicable road agency. Reasons for the waiver or modification shall be documented. Factors to be considered include:
  - a. Roadway improvements that are scheduled that are expected to mitigate any impacts associated with the proposed project.
  - b. The existing level of service along the roadway is not expected to drop below C due to the proposed project.
  - c. The existing level of service is not expected to be significantly impacted by the proposed project due to specific conditions at this location.
  - d. A similar traffic study was previously prepared for the site and is still considered applicable.

### C. Potable Water and Sewage Disposal:

1. Any structure for human occupancy after the effective date of this ordinance and used for dwelling, business, industrial, recreational,

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institutional, mercantile or storage purposes shall not be used or occupied unless said structure shall be provided with a potable water supply and waste water disposal system that ensures a safe and effective means of collection, treatment, and disposal of human, commercial, and industrial wastes.

2. All on-site sewage disposal and potable water facilities shall be constructed and maintained in accordance with the requirements and standards of the Livingston County Public Health Department as well as those of other applicable local, county, state, or federal agencies.
3. All new land uses and land development projects within the Urban Residential District or Highway Service District, as delineated in the Marion Township Master Plan, must be serviced by a municipal sewerage treatment and water supply if the infrastructure abuts the property in question.

### **E. Storm Water Management:**

1. All development requiring site plan review shall retain storm water runoff, or detain it, so as to allow discharge without any increased impact on adjacent lands, streams or water bodies greater than the predevelopment runoff impact.
2. All development shall conform to the soil erosion and sedimentation requirements of Livingston County and the State of Michigan.
3. All storm water management facilities shall meet or exceed the criteria of the Livingston County Drain Commissioner.
4. No land improvements shall be constructed which will reduce the service currently being provided by existing storm water management infrastructure or existing drainage patterns unless necessary improvements to such infrastructure or natural drainage patterns are first made.

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5. All drainage system reports, peak flow rates and runoff volume calculations, safety requirements and the grading plans shall be certified by a licensed professional engineer authorized by the State of Michigan to perform such functions.
6. Additional requirements may be necessary through the Livingston County Drain Commission.

### Section 6.18      Condominium Projects

All condominium projects shall conform to the following general provisions in addition to all other applicable district regulations.

- A.     Master Deed Review and Approval: Before recording the master deed and exhibits for a condominium project, the developer shall submit the master deed and exhibits to the township for review and approval. These documents shall be reviewed by the township attorney, township engineer, and township planner to verify compliance with local ordinances and state law. The Planning Commission shall review these documents and comments and make a recommendation. The Board of Trustees shall have the authority to grant approval of the master deed and exhibits, according to the requirements of Article XVIII: Site Plan Requirements.

Before issuance of a certificate of zoning compliance, the developer shall submit the following information to the zoning administrator for review and approval: two (2) copies of the recorded master deed and any exhibits; and a survey of improvements labeled as “must be built.” The survey shall be provided in a format acceptable to the township.

- B.     Developmental Standards: All buildings and structures within a condominium project shall comply, to the extent applicable, with the site development standards contained in Section 7.10, Schedule of Regulations and Articles IV and V of the Marion Township Subdivision Control Ordinance, except that private roads shall be permitted.

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- C. Infrastructure: Condominium projects shall comply with Section 6.17 Infrastructure and Concurrency Standards.
  
- D. Easement Dedication: Easements must be dedicated to the appropriate public agencies for the purpose of construction, operation, maintenance, inspection, repair, alteration, replacement, or removal of pipelines, conduits, mains and other installations of a similar character for the purpose of providing public utility services, including conveyance of sewage, potable water, or storm water runoff across, through or under the property subject to said easement, and excavation and refilling of ditches and trenches necessary for the location of such installations. Easements dedication documentation shall be reviewed by the Township Attorney and Township Engineer.
  
- E. Monuments: Condominium projects that consist in whole or in part of condominium units that are building envelopes shall be marked with monuments as required in Section 125 of the Land Division Act (MCL 560.125).
  
- F. Private Roads: Private roads within a condominium project shall meet the standards of Section 6.20 Private Roads Serving Single-family, Multiple-family and Commercial developments of this ordinance.
  - 1. Access: All units must have driveway access from a road that is an interior private road of the projects. Driveway access for units to exterior roads is prohibited.
  
- G. Greenbelt Buffer: A landscaped greenbelt buffer that shall consist of, but not be limited to, trees, shrubs, grasses and herbaceous vegetation, exclusive of noxious weeds, is required upon finding by the Planning Commission that the proposed development may have a negative impact on an abutting parcel or parcels. If such a greenbelt is required, it shall be at least twenty-five (25) foot wide along and between the boundaries of the proposed development and any abutting parcels the Planning Commission determines could be negatively impacted by the proposed development. A fifty (50) foot wide greenbelt shall be established adjacent to any public road right-of-way that is not within the project. Required greenbelts shall not be within the boundaries of a lot or unit.

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1. **Character:** The required greenbelt buffer areas shall be maintained in perpetuity in a natural vegetation or landscaped state, as provided above, to provide a visual buffer. The greenbelt shall not be mowed or altered in any manner unless approved by the township zoning administrator and the homeowners' association. In no case shall any item, including, but not limited to, sheds, play structures, play area, lawn ornaments, lawn furniture, patios, automobiles, trucks, tractors, trailers, brush piles, or refuse piles be placed within the required greenbelt. If landscaping maintenance needs to be done within the designated greenbelt area such as trimming or pruning of trees, removal of dead vegetation, or other related activities, the zoning administrator and the homeowners' association must approve of the maintenance activity. The cost of such maintenance activity is to be paid for by the lot owners as defined above and/or the homeowners' association.
2. **Maintenance Responsibility:** The homeowners' association shall be responsible for maintenance, including cost of the greenbelt buffers. The township is not responsible for any maintenance of the greenbelt buffer.
3. **Modifications:** The Planning Commission may modify this standard for the end of stub streets and along phasing boundaries, upon finding that the intent of this section is maintained.

### Section 6.19      Access Controls

- A. **Curb Cuts and Driveways:** Curb cuts and driveways shall be located only upon the approval of the Livingston County Road Commission and appropriate state authorities as required by law; provided, however, such approval shall not be given where such curb cuts and driveways shall cause an unreasonable increase in traffic hazards, including but not limited to allowing adequate sight distance for ingress and egress.
  1. All plans for buildings to be erected, altered, moved or reconstructed, and use of premises within the Township shall contain a plan for the proposed driveway access to the premises. The Zoning Administrator prior to the issuance of a building permit shall approve said plan. No such plan shall be approved unless such driveway access is onto a dedicated public

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street or an approved private road. The Zoning Administrator shall refer to appropriate Livingston County Road Commission standards during his review. Driveways shall, at a minimum, meet the following standards:

- a. Culverts shall be installed in line with and on the same grade as the road ditch.
  - b. Driveways shall intersect an existing public street or private road in a generally perpendicular manner.
  - c. No portion of the driveway entrance within the right-of-way shall have a grade of greater than ten (10) percent—one (1) foot vertical rise in ten (10) feet of horizontal distance.
  - d. The driveway shall meet the sight distance and clear vision standards of the Livingston County Road Commission.
  - e. Residential driveways shall be a minimum of fifty (50) feet from the nearest right-of-way line of an intersecting road or street.
  - f. Driveways shall be designed to minimize runoff and erosion.
2. No more than one (1) driveway shall be allowed per parcel.
  3. New driveways shall align with existing or planned driveways, crossovers, turn lanes or other access features. This shall only be required if the resulting alignment provides safe access and if all requirements of this Ordinance and the Livingston County Road Commission are met.

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4. The location of new driveways shall conform to road improvement plans or corridor plans that have been adopted by the Township or Livingston County Road Commission or Michigan Department of Transportation.

5. No driveway shall serve more than one (1) dwelling.

B. **Lots to Have Access:** All parcels or lots hereinafter created in the Township shall have frontage on a public street, or an approved private road, and take their lot access from such frontage so as to provide safe, convenient access for fire protection, other emergency vehicles, and any required off-street parking. Except that corner lots shall take their access from an approved private road or approved public street in a platted subdivision or condominium project. Wherever a corner lot exists at the intersection of two (2) major thoroughfares, then access shall be taken from the thoroughfare presenting the least hazard in the opinion of the Livingston County Road Commission.

Prior to obtaining a land use permit for a new parcel or lot created on a private road that was in existence prior to the effective date of this ordinance, the Township may initiate an inspection of the private road in accordance with General Ordinance No. 07-03, Pre-existing, Non-conforming Private Roads.

C. **Clear Vision Zone:** Livingston County Road Commission Rules shall apply to all private roads in the Township.

### Section 6.20 Private Roads

A. **Intent and Purpose:** The intent and purpose of this section is to: protect and promote the public health, safety, comfort, and convenience; establish minimum standards and specifications for the design and construction of private roads; ensure private roads remain passable in all weather conditions; ensure access by fire, police, and other public and emergency vehicles; and ensure a functional road transportation network.

B. **General Private Road Requirements:** All private roads shall meet the general standards below:

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1. Private roads shall meet all applicable township ordinances and standards at the time of application.
2. Deviations: Deviations from the standards of this section for pre-existing, legally nonconforming private roads may be allowed by the Board of Trustees based on the recommendations of the township engineer as outlined in this section.
3. Intersections: Intersections shall be as close to ninety (90) degrees as possible, but shall not be less than eighty (80) degrees or greater than one hundred (100) degrees.
4. Intersections with Public Roads: Intersections of private roads with public roads shall meet the applicable requirement of the Livingston County Road Commission in effect at the time of application.
5. Surface: The road surface shall be shown on the plans and shall be in accordance with the requirements outlined herein.
6. Road Location: Private roads shall be located in the center of the right-of-way to the greatest extent practical.
7. Number of Dwelling Units: Private roads with a single access shall provide access to a maximum of thirty (30) dwelling units. Private roads with more than one (1) point of access shall provide access to a maximum of seventy-five (75) dwelling units. For the purposes of this requirement, access is defined as an intersection from another private or public road.
  - a. Number of Dwelling Units: All dwelling units whose only means of access is by the private road shall be considered in the number of dwelling units allowed.
  - b. Extension: If a private road is an extension of a dead-end public road, the number of dwelling units along the public road shall be considered in the number of dwelling units allowed. This limit shall apply to any type of road surface.

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8. Length: Private roads with only one (1) point of access shall have a maximum length of two thousand (2,000) feet.

9. Dead Ends: Dead end roads shall terminate with a cul-de-sac, subject to the standards outlined below.

### 10. Cul-de-sac General Requirements:

a. Property Line: Cul-de-sac shall terminate at the property line except when precluded by a natural barrier or when the cul-de-sac terminates at the last available building envelope, lot, or parcel within the development and that building envelope, lot, or parcel fronts upon the cul-de-sac.

b. Frontage Measurements: Frontage measurements along a cul-de-sac shall be measured tangent to the front setback line and at right angles to the side lot lines (See Figure 6.20.1)

c. Access: A maximum of four (4) principal buildings or lots shall have frontage on a cul-de-sac. Any lot located on a cul-de-sac shall have its side lot lines designed to be radial to the front property line or right-of-way line on either public or private roads, except where such lot lines would create unusual, inconvenient, or irregular lot shapes.



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Board of Trustees. Street signs must be installed before construction of buildings can commence.

15. **Regulatory Signs:** Regulatory signs shall be positioned and installed in accordance with the Michigan Manual of Uniform Traffic Control Devices on all private roads where such private roads intersect public streets. All other signs with the private road shall be identified on the site plan and be in accordance with the Michigan Manual of Uniform Traffic Control Devices, unless the Planning Commission approves another type of design for consistency with the character of the development. Street name signs shall be provided at all intersections. Private road name signs shall contrast with public street name signs and shall clearly indicate the private road is private. The sign shall be paid for, posted, and thereafter maintained by the homeowners' association or developer.
  16. All purchasers of property where a private road provides access to the premises shall, prior to closing of the sale, receive from the seller a notice of easement, in recordable form, substantially conforming to the following:
    - a. "This parcel of land has private road access across a permanent sixty-six (66) foot easement which is a matter of record and a part of the deed. This notice is to make purchaser aware that this parcel of land has egress and ingress over this easement only. Neither the county nor township has any responsibility for maintenance or upkeep of any improvement across this easement. This is the responsibility of the owners of record. The United States mail service and the local school district are not required to traverse this private improvement and may provide service only to the closest public access. (Maintenance of Private Roads Act, PA 139 of 1972, as amended)."
  17. The Board of Trustees shall establish by resolution a fee schedule to defray costs, which may include but not be limited to inspection, plan review, administration, and enforcement of this section. Before final approval, any costs incurred by the township shall be paid by the applicant.
  18. Additional requirements for private roads are included in the Marion Township Development Standards, July 2020.
- C. **New Minor Private Roads:** New private roads serving between two (2) and five (5) dwelling units shall meet the additional specific standards below.

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1. Easement Width: Right-of-way or easements shall have sufficient width to encompass the entire cross section of the road, including any ditches or drainage systems.
2. Roadway width should be at least twenty (20) feet whether paved or gravel. A one (1) foot grass shoulder should be provided on both sides of the road.
3. Roadway Cross Section: Roadway cross sections shall conform to the standards below.
  - a. Gravel Roads: Gravel roads shall have six (6) inches of MDOT 21A or 22A road gravel.
  - b. Paved Roads: Paved roads shall have eight (8) inches of MDOT 21AA limestone aggregate base and four (4) inches of bituminous surface placed in two (2) courses with a maximum course or lift of two (2) inches
  - c. Crown: All roadways should be sufficiently crowned for drainage.
  - d. Vertical alignment should conform to the following guidelines:
    - i. Site distances at all intersections should be verified and shall meet the requirements of the Livingston County Road Commission's Procedures and Regulations for Developing Public Roads, effective July 1, 2024, Section 3.6 and the Livingston County Road Commission's Procedures and Regulations for Permitted Activities, Section 3.2.
    - ii. Roadway grades should be minimized and provide safe emergency vehicle access.
  - e. A system to adequately collect and discharge tributary roadway runoff is required. Either open ditch or enclosed storm sewer systems are acceptable and shall be sized reasonably for the anticipated runoff. Generally, a 10-year storm event shall be used to determine runoff.

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- D. **New Major Private Roads:** New private roads serving more than five (5) dwelling units shall meet the additional specific standards below.
1. Right-of-way or Easements: Rights-of-way or easements shall meet the standards below.
    - a. Stormwater Drainage: Rights-of-way or easements shall have sufficient width to encompass any ditches, swales, or drainage systems to convey stormwater from the road surface.
    - b. Width: The right-of-way or easement shall have a width of at least sixty-six (66) feet. A wider width may be required upon finding that it is necessary to accommodate drainage, utilities, topography, or other unique conditions.
  2. Landscape Buffer: A landscape buffer may be required upon finding that a landscape buffer is necessary to reduce the impact of the private road upon existing abutting parcels.
  3. Roadway width shall meet the following requirements:
    - a. Gravel road: thirty (30) feet edge of gravel to edge of gravel.
    - b. Paved road:
      - i. Residential streets without curb shall be a minimum of twenty-two (22) feet edge of pavement to edge of pavement, with a four (4) foot wide paved or gravel shoulder on both sides of roadway edge.
      - ii. Residential streets with curb and gutter: a minimum of twenty-seven (27) feet back of curb to back of curb, with a minimum lane width of twelve (12) feet. Either a 2 ½ foot wide curb and gutter or a 1 ½ foot wide curb and gutter are acceptable.
      - iii. In areas where on-street parking is allowed, the minimum width of the road shall be increased by eight (8) feet. Including the gutter pan in the width extension for parking is not permitted.

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- iv. Roadway recovery areas (clear zones) shall be a minimum of seven (7) feet for straight-line sections and inside diameter curves. A minimum of fifteen (15) feet is required for outside diameter curves. Recovery areas shall be considered the distance between a permanent structure and edge of gravel shoulder or back of curb.
4. Roadway cross sections shall conform to the following criteria. Alternate cross sections may be considered if the alternate section has been demonstrated to have equivalency to the required section via the AASHTO (American Association of State Highway and Transportation Officials) Guide for the Design of Pavement Structures. Geotechnical analysis may be required by the township engineer.
5. Residential roads or streets shall have a minimum of four (4) inches bituminous surface placed in two (2) courses (no course or lift shall exceed 2" in depth), with eight (8) inches of aggregate base (MDOT 21AA limestone). Gravel roads, if permitted by the township, shall consist of a minimum of eight (8) inches of aggregate base (MDOT 22A) and six (6) inches of sand sub-base meeting the requirements of MDOT Class II.
  - a. Shoulder pavement sections shall match the section of the road.
  - b. The pavement shall have transverse slope (crown) of 2% each way of the pavement centerline. Super elevated sections are prohibited in any development having a proposed operating speed of less than fifty-five (55) miles per hour. Where the design speed for a proposed street or road is less than fifty-five (55) mph and super elevation would otherwise be required as determined in the latest edition of the AASHTO Policy on Geometric Design for Streets and Highways, the horizontal curve shall be designed with a radius long enough to counter the need for super elevation.
  - c. Edge drain is required on all streets with curb and gutter. The trench must be filled with pea stone to the level of the base material, and the entire trench wrapped with geotextile fabric.
  - d. Proposed sections utilizing an open ditch section shall have a ditch depth of not less than two (2) feet relative to the shoulder hinge point and two (2) feet wide rounded at the bottom. The depth shall be increased if warranted by drainage discharge calculations.

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- e. The maximum slope within the proposed right-of-way shall be 1:4 (rise/distance). The use of slopes steeper than 1:4 outside of the proposed right-of-way draining toward the roadway should be avoided.
  - f. Curb Cuts and Driveways: See Marion Township Ordinance Article VI, Section 6.19.
  - g. Pavement sections for residential driveways shall meet the following:
    - i. Gravel—six (6) inches of MDOT 21AA limestone or MDOT 22A.
    - ii. Asphalt—three (3) inches of bituminous surface over six (6) inches of MDOT 1AA limestone.
    - iii. Concrete—six (6) inches of concrete over four (4) inches of MDOT Class II.
6. Horizontal alignment shall conform to the following guidelines. All horizontal alignment and intersection design shall follow the latest edition of the AASHTO Policy on Geometric Design for Streets and Highways.
7. The design speed shall be twenty-five (25) mph for interior subdivision streets unless otherwise directed by the township or road commission.
- a. Minimum center-line radius for a horizontal curve shall be 230 feet.
  - b. Minimum cul-de-sac radius at the outside edge of the pavement shall be fifty (5) feet, not including any curb.
  - c. The fillet radius from cul-de-sac to tangent sections shall be a minimum of fifty (50) feet.

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- d. Intersection shall be at right angles and shall be designed such that the first sixty-five (65) feet in any direction shall be straight line sections.
  - e. Boulevard intersections or entrances shall have concrete curb and gutter around the island.
  - f. MDOT Detail M openings shall be used for all commercial or industrial drives or approaches. All commercial or industrial approaches shall be curbed regardless of the road cross section.
  - g. Drive approaches shall be contained within the property lines, including radii and any acceleration/deceleration tapers, if required.
  - h. Drive approaches shall be a minimum of one hundred twenty-five (125) feet from any intersection, measured from the centerline of the drive approach to centerline of the road.
8. Vertical alignment shall conform to the following guidelines. All vertical alignment design shall follow the latest edition of the AASHTO Policy on Geometric Design for Streets and Highways. The design speed shall be twenty-five (25) mph for interior subdivision streets unless otherwise directed by the Township or Road Commission.
- a. The percent of grade on a road with an open ditch cross section shall be no less than 1.0% or more than 5.0% where ditch grades are centerline dependent.
  - b. The percent of grade on a road with a curb and gutter cross section shall be no less than 0.50% or more than 6.0%.
  - c. A vertical curve shall be required where the algebraic difference in slopes of the tangent sections exceeds 1.0%. The minimum length of the vertical curve shall be one hundred (100) feet.
  - d. Road grades within one hundred (100) feet of an intersection shall not exceed a slope of three (3) percent regardless of the surface type.

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9. A drainage system to adequately collect and discharge tributary roadway runoff is required. Either an open ditch or enclosed storm sewer system per the township requirements is acceptable.
  - a. All paved roads with curb and gutter shall have an enclosed storm sewer system unless otherwise approved by the township.
  - b. The maximum allowable storm water runoff tributary area conveyed overland in drainage ditches shall be no more than six (6) acres. When the tributary area is more than six (6) acres or the amount of flow in the ditch exceeds 8.0 cubic feet per second, an enclosed storm sewer system and curb and gutter will be required.
  - c. The percent of grade in an open ditch shall not be less than 1.0% or greater than 5.0%.
  - d. Any open ditch that exceeds 3.0% shall have a sodded ditch bottom. Sod in these areas shall extend from the ditch bottom up either side of the ditch to a point one foot above the flow line of the ditch.
10. Roadway signage shall meet the requirements of the Livingston County Road Commission and the Michigan Department of Transportation's Manual of Uniform Traffic Control Devices.

### E. **New Commercial and Industrial Private Roads:**

1. All commercial and industrial roadways that are to be private shall meet the requirements of the Livingston County Road Commission's Procedures and Regulations for Developing Public Roads, effective July 1, 2024, the Marion Township Zoning Ordinance and the standards outlined below. If a conflict exists between the road commission and township standards, the stricter requirements shall govern.
2. All private commercial and industrial roads shall be paved.
3. Right-of-way or easements shall have sufficient width to encompass the entire cross section of the road, including any ditches or drainage systems.

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- a. Depending on the location of the private road easement in relation to adjacent parcels, a landscape buffer as provided in the township zoning ordinance may be required by the township to reduce the impact of the private road upon existing abutting parcels.
  - b. Width: The right-of-way or easement shall have a width of at least sixty-six (66) feet. A wider width may be required upon finding that it is necessary to accommodate drainage, utilities, topography, or other unique conditions.
4. Commercial and industrial private road width shall meet the following requirements:
  - a. A minimum of twenty-seven (27) feet back of curb to back of curb, with a minimum lane width of twelve (12) feet. Either a 2 ½ foot wide curb and gutter or a 1 ½ foot wide curb and gutter are acceptable.
  - b. In areas where on-street parking is allowed, the minimum width of the road shall be increased by eight (8) feet. Including the gutter pan in the width extension for parking is not permitted.
  - c. Roadway recovery areas (clear zones) shall be a minimum of seven (7) feet for straight-line sections and inside diameter curves. A minimum of fifteen (15) feet is required for outside diameter curves. Recovery areas shall be considered the distance between a permanent structure and edge of gravel shoulder or back of curb.
5. Roadway cross sections shall conform to the following criteria. Alternate cross sections may be considered if the alternate section has been demonstrated to have equivalency to the required section via the AASHTO Guide for the Design of Pavement Structures. Geotechnical analysis may be required by the township engineer:
  - a. Commercial private roads shall have a minimum of four (4) inches of bituminous surface placed in two (2) courses (no course or lift shall exceed 2" in depth), with eight (8) inches of aggregate base (MDOT 21AA limestone), and six (6) inches of sand sub-base meeting the requirements

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of MDOT Class II. An open-graded drainage course may be substituted for sand sub-base.

- b. Industrial roads shall have a minimum of nine (9) inches of non-reinforced concrete pavement, four (4) inches of aggregate base (MDOT 21AA limestone) and four (4) inches of sand sub-base meeting the requirements of MDOT Class II.
- c. Shoulder pavement sections shall match the section of the road.
- d. The pavement shall have transverse slope (crown) of 2% each way of the pavement centerline. Super elevated sections are prohibited in any development having a proposed operating speed of less than fifty-five (55) miles per hour. Where the design speed for a proposed street or road is less than fifty-five (55) mph and super elevation would otherwise be required as determined in the latest edition of the AASHTO Policy on Geometric Design for Streets and Highways, the horizontal curve shall be designed with a radius long enough to counter the need for super elevation.
- e. Edge drain is required on all streets with curb and gutter.
- f. Proposed sections utilizing an open ditch section shall have a ditch depth of not less than two (2) feet relative to the shoulder hinge point and two (2) feet wide rounded at the bottom. The depth shall be increased if warranted by drainage discharge calculations.
- g. The maximum slope within the proposed right-of-way shall be 1:4 (rise/distance). The use of slopes steeper than 1:4 outside of the proposed right-of-way draining toward the roadway should be avoided.
- h. Driveway slopes or lot access areas shall have a slope not greater than 1:10 within the right-of-way. Driveways beyond the right-of-way shall generally not exceed 12% slope without significant topographical limitations. Additional information about driveways may be found in Article XI Section 6.19 Access Controls.
- i. Pavement sections for commercial and industrial driveways shall meet the

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following:

- i. Asphalt—three (3) inches of bituminous surface over six (6) inches of MDOT 1AA limestone.
  - ii. Concrete—six (6) inches of concrete over four (4) inches of MDOT Class II.
6. Horizontal alignment shall conform to the following guidelines. All horizontal alignment and intersection design shall follow the latest edition of the AASHTO Policy on Geometric Design for Streets and Highways.
  7. The design speed for commercial and industrial private roads shall be twenty-five (25) mph for interior roads unless otherwise directed by the township or road commission.
    - a. Minimum center-line radius for a horizontal curve shall be 230 feet.
    - b. Minimum cul-de-sac radius at the outside edge of the pavement shall be fifty (50) feet, not including any curb.
    - c. The fillet radius from cul-de-sac to tangent sections shall be a minimum of fifty (50) feet.
    - d. Intersection shall be at right angles and shall be designed such that the first sixty-five (65) feet in any direction shall be straight line section.
    - e. Boulevard intersections or entrances shall have concrete curb and gutter around the island.
    - f. MDOT Detail M openings shall be used for all commercial and industrial drives or approaches. All commercial or industrial approaches shall be curbed regardless of the road cross section.



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- b. The maximum allowable storm water runoff tributary area conveyed overland in drainage ditches shall be no more than six (6) acres. When the tributary area is more than six (6) acres or the amount of flow in the ditch exceeds 8.0 cfs, an enclosed storm sewer system and curb and gutter will be required.
- c. The percent of grade in an open ditch shall not be less than 1.0% or greater than 5.0%.
- d. There shall be no open ditches along commercial private roads.

### F. Pre-existing, Legally Nonconforming Private Roads

- 1. Existing: Private roads in existence prior to the adoption of this ordinance will not be subject to the requirements listed in 6.20 provided there is no change in the number of dwellings or commercial/industrial facilities utilizing the private road.
- 2. If the number of dwellings or commercial/industrial facilities using the private road increases and causes the private road to change classification, the private road must be brought up to the current private road standards outlined in 6.20.
- 3. If a private road is classified as a non-conforming private road, no land use permits will be granted for new construction unless the parcel in question was in existence prior to the adoption date of this ordinance.
  - a. A parcel that is created because of a split from a parcel that was a lot of record at the time of the adoption of this ordinance shall be classified as a new parcel for the purposes of this section.
  - b. An additional new dwelling unit or parcel where the number of dwelling units or parcels is greater than five (5) will require the private road to be brought up to the current private road standards outlined in 6.20 E—New, Conforming Private Roads serving more than five (5) dwelling units.
- 4. Non-conforming roads can be brought into compliance to allow the issuance

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of land use permits in the future. A permit will be required as described in Section 6.20 A (9).

### G. **Improvements or Changes of a Conforming Pre-existing Private Road Serving More than One (1) Dwelling Unit**

1. Submission requirements shall be sufficient to determine the nature and extent of the existing conditions and any proposed improvements. The extent of the information provided shall be at the discretion of the township, township engineer, and township planner. In general:
  - a. Minor changes in the physical characteristics of the road will require a sketch of the proposed improvements. The sketch should utilize current aerial information but does not need to be drawn to scale. Aerial information is available at the Livingston County GIS Management Department, 304 E. Grand River Ave., Suite 101, Howell, MI 48843.
    - i. Minor changes shall include:
      - a) Installation or changes of signage
      - b) Adding reflectors or rumble strips
      - c) Installation of speed bumps
    - b. Major changes in the physical characteristics of the road will require detailed plans. The level of detail shall meet the requirements of a full, complete construction plan submittal.
      - i. Major changes shall include:
        - a) Widening the road
        - b) Changing the alignment of the road
  2. Curb Cuts and Driveways:

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- a. See Marion Township Ordinance Article VI, Section 6.19

### H. Improvements or Changes of a Conforming Pre-existing Commercial or Industrial Private Road

1. Submission requirements shall be sufficient to determine the nature and extent of the existing conditions and any proposed improvements. The extent of the information provided shall be at the discretion of the township, township engineer and township planner.
2. In general, minor changes in the physical characteristics of the road will require a sketch of the proposed improvements. The sketch should utilize current aerial information but does not need to be drawn to scale. Aerial information is available at the Livingston County GIS Management Department, 304 E. Grand River Ave., Suite 101, Howell, MI 48843. Minor changes shall include:
  - a. Installation or changes of signage
  - b. Adding reflectors or rumble strips
  - c. Installation of speed bumps
3. Major changes in the physical characteristics of the road will require detailed plans. The level of detail shall meet the requirements of a full, complete construction plan submittal. Major changes shall include:
  - a. Widening the road
  - b. Changing the alignment of the road
  - c. Addition of a new commercial or industrial facility
  - d. Addition of a new driveway for an existing commercial or industrial facility
  - e. Increasing the length of the private road

### I. Soil Erosion and Sediment Control

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1. A soil erosion and sediment control plan are required for all sites that require a permit. This can be made a part of the plan documents. Itemized on this plan shall be step-by-step requirements for controlling erosion (sequence of construction). No work, including site cleaning, will be allowed until approved soil erosion and sediment control measures are in place.
  2. Accelerated erosion and sedimentation must be prevented during all phases of construction including:
    - a. Initial site clearing
    - b. Utility construction
    - c. Building construction
    - d. Site paving
    - e. Final site approval
  3. When land is exposed during development, the exposure should be kept to the shortest possible period of time, as deemed by the township.
  4. Temporary vegetation or mulching may be required to protect areas exposed during development, particularly if an unexpected erosion problem becomes evident. The developer will be required to assign this activity top priority upon notification by the township. Failure to act after a second notification will be grounds for the township to take necessary action to address the problem and charge the owner/developer accordingly
  5. Sediment basins or temporary basin outlet standpipe filters shall be maintained during construction to ensure that sediment within runoff is not being discharged onto neighboring properties.
  6. Erosion protection shall be provided in the public roadway for all drainage structures receiving road runoff to the low point.
  7. The developer shall clean all structures impacted during construction along with any other erosion control items prior to occupancy.
- J. Review and Approval Process:** Private roads shall be reviewed as outlined below.

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1. Submittal Requirements: Private road applications shall include all of the information outlined below:
  - a. Survey and Legal Description of Parcel: Survey that provides the legal description(s) of all the parcel(s) and any and all easements that exist on the subject property, and the names and addresses of all the lot or parcel owners of the property the private road will be built on.
  - b. Legal Description of Area Served: A legal description of all lots or parcels to be served by the private road and the names and addresses of all persons owning an interest in title to the property.
  - c. Vicinity Map: A vicinity map of a minimum scale of one-inch equals two thousand feet (1" = 2,000'), showing the location of the private road in the township, any access roads and cross streets, road names, a scale, and a north arrow.
  - d. Topography: Existing topography at two (2) foot contour intervals for the portions of the site sufficient to determine drainage from the private road easement to a suitable stormwater outlet.
  - e. Proposed improvements (including but not limited to, roads, sewers, and ditches) shown in plan and profile indicating all materials, grades, dimensions, and bearings. The plans shall also show all existing and proposed grades, the location of all existing and proposed drainage facilities, the location of existing and/or proposed utilities and structures, other structures, physical or natural conditions existing adjacent to such improvements, and any connections to existing public and private roads.
  - f. Soil Borings: Soil borings within the proposed route of the private road.
  - g. Trees and Wetlands: Tree coverage and wetland areas within one hundred (100) feet of either side of the proposed route.
  - h. Existing Buildings: Location of existing buildings on the lots or parcels being served or intended to be served by the private road, as well as any existing buildings or structures in or adjacent to any proposed road

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easement.

- i. Utilities: Plans shall show the existing or proposed location of private utilities and easements, such as gas, telephone, and electric.
- j. Division Confirmation: Document from township assessor verifying two or more land divisions are available.
- k. Maintenance and Easement Agreement: A complete copy of the road maintenance agreement(s) and road easement agreement(s) regarding the maintenance and improvements of the right-of-way and roadway. The road maintenance agreement shall, at a minimum, provide for:
  - i. A method of initiating and financing of such road in order to keep the road up to township specifications as set forth in this ordinance.
  - ii. A workable method of apportioning the costs of maintenance and improvements to current and future users.
  - iii. A notice that if repairs and maintenance are not made, the Marion Township Board of Trustees may bring the road up to established township standards as set forth in this amendment and assess owners of parcels on the private road for the improvements, plus an administrative fee.
  - iv. A notice that no public funds of the township are to be used to build, repair, or maintain the private road.
  - v. Furthermore, said road maintenance agreements shall be in such form as to be recordable with the County Register of Deeds and shall specifically address the liability and responsibility of the parties to said agreement to maintain the private road pursuant to the specifications of this section, including, but not limited to, the responsibility of removing snow from said private roads. The recorded road easement and maintenance agreement, which shall run with the land, shall also inform subsequent purchasers that the road is private and may never be maintained or accepted by the Livingston County Road Commission.

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2. A complete statement of all the terms and conditions of the proposed road easement and road maintenance agreement, which shall also provide for:
  - a. Easements to the public for purposes of emergency and other public vehicles and for whatever public utility services are necessary.
  - b. A provision that the owners of any and all of the property using the road shall refrain from prohibited, restricting, limiting or in any manner interfering with normal ingress and egress and use by any of the other owners. Normal ingress and egress and use shall include use by family, guests, invitees, vendors, tradesmen, delivery persons, and others bound to or returning from any of the properties and having a need to use the road.
3. Appropriate deed restrictions and/or master deed provisions shall provide for free and clear vehicular access for emergency service vehicles on all private roads
4. Upon approval of the road easement and road maintenance agreement, it shall be recorded at the Livingston County Register of Deeds and a copy of the recorded agreement shall be filed with the township clerk. The township shall not issue a land use permit for any dwelling unit until it has received a copy of the recorded, approved agreement.
  - a. While not required to be dedicated to the public, no structure or land use activity shall be established within approved rights-of-way or easements. All plans, as submitted for approval, must show the private road easement including a legal description.
  - b. Construction authorization from the Livingston County Road Commission is required for connection to county roads. When applicable, a permit is also required from the county under the Soil Erosion and Sedimentation Control Act, PA 347 of 1972. At the discretion of the Board of Trustees, a proposed private road that otherwise meets the requirements of this ordinance may be disapproved unless it connects to another private road or a county road when necessary to provide safe traffic flow and emergency vehicle access. No lots or units shall be permitted driveway access from a road that is not an interior road of the plat, condominium, or

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development.

- c. Application for road construction shall not be made without evidence of an approved land division. The applicant shall prepare and provide twelve (12) sets of a plot plan, site plan, or construction plan, pursuant to the application and design requirements of this ordinance. All of the required information shall also be submitted twenty-one (21) days prior to the meeting date to which the applicant requests consideration by the Marion Township zoning administrator. The zoning administrator shall submit the private road site plans to the Livingston County Road Commission and township engineer for review and comment as necessary. The proposed road maintenance agreement and road easement agreement shall be sent to the zoning administrator who shall then forward to the township attorney for review and comment.

### 5. Application Review and Approval or Rejection

- a. The reports of the Livingston County Road Commission, township attorney, township engineer, the application, and all supporting data shall be forwarded to and reviewed by the Planning Commission which shall make a recommendation to the Board of Trustees who shall be responsible for granting final approval for the private road.
- b. If the private road application is approved, construction authorization will be issued by the zoning administrator. Following approval of a private road application, no new private road construction permit(s) will be issued without an approved amendment to the site plan or the private road application, as the case may be, in compliance with the zoning ordinance in effect at the time the land use permit is requested. If the private road application is rejected, the reasons for the rejection, as well as any requirements that must be met in order to obtain approval, shall be given in writing to the applicant.
- c. The zoning administrator will arrange for inspections by the township engineer during construction of, and upon completion of, the private road. The costs of inspection, including the compensation of the Marion Township engineer or designated official shall be paid by the applicant prior to the issuance of the certificate of completion.
- d. Private Road Certification: The Board of Trustees, by resolution, upon

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receipt of the township engineer's final inspection report, will certify the private road in question as conforming to the standards of Marion Township, and accepted as an approved private road.

6. Variances to private road requirements will be handled by the Zoning Board of Appeals as outlined in Article V of this ordinance.
7. Failure by the applicant to begin construction of the private road according to approved plans on file with the township within one (1) year from the date of approval shall void the approval and a new plan shall be required by the township subject to any changes made herein or subject to any changes made by the Livingston County Road Commission or the design requirements set forth in the current Livingston County Road Commission Plat & Street Development Specifications.

### K. **Inspection**

1. Inspection will be made periodically throughout construction on the maintenance and effectiveness of soil erosion control methods by designated consultants or personnel from Marion Township and Livingston County.
2. If inspection reveals that the controls are not being implemented, a cease and desist order on all site construction may be issued.

- L. **Notice of Easements:** All purchasers of property where a private road provides access to the premises shall, prior to closing of the sale, receive from the seller a notice of easement, in recordable form, substantially conforming to the following:

"This parcel of land has private road access across a permanent sixty-six (66) foot easement which is a matter of record and a part of the deed. This notice is to make Purchaser aware that this parcel of land has egress and ingress over this easement only. Neither the County nor Township has any responsibility for maintenance or upkeep of any improvement across this easement. This is the responsibility of the owners of record. The United States mail service and the local school district are not required to traverse this private improvement and may provide service only to the closest public access. (Maintenance of Private Roads Act, PA 139 of 1972, as amended.)"

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- M. **Fees:** The Marion Township Board shall establish by resolution a fee schedule to defray costs, which may include but not be limited to inspection, plan review, administration, and enforcement of this section. Before final approval, any costs incurred by the Township shall be paid by the applicant.

### Section 6.21 Shorelines

A. **Setbacks:**

1. All principal uses of land adjacent to inland lakes shall be set back according to the requirements below, except for the following uses: pump houses, recreational docks, boat houses, fishing piers, erosion control devices and associated facilities when located and designed so as not to unreasonably interfere with, degrade or decrease the enjoyment of existing uses and water resources.
2. Setbacks from the ordinary high-water mark of any natural or artificially created lake shall be:
  - a. Fifty (50) feet for any principal structure.
  - b. One hundred (100) feet for any well or septic system, unless waived by the Livingston County Health Department.
  - c. Fifty (50) feet for any parking lot or parking area.
  - d. Fifty (50) feet for any agricultural cultivation or livestock assembly.
  - e. Fifty (50) feet for any roads, driveways, or recreational trails unless no alternatives exist, then they may be placed closer, but must be designed to minimize adverse impacts.

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- B. All waterfront development shall comply with the Township Boat Regulation Ordinance adopted February 13, 1992.

### Section 6.22 Single-Family Design Standards

In the case of a mixed occupancy where a building is occupied in part as a dwelling, the part so occupied shall be deemed a dwelling for purposes of this Ordinance and shall comply with the provisions herein relative to dwellings. Garage space, whether in an attached or detached garage, shall not be considered as part of a dwelling for meeting area requirements. A dwelling shall comply with the following standards:

- A. The dwelling shall meet the minimum square footage requirements for the district in which it is located.
- B. The minimum width across any front, side or rear elevation shall be at least twenty-four (24) continuous feet of exterior wall.
- C. The dwelling unit shall have a minimum 4:12 roof pitch on the main roof of the dwelling with not less than a six (6) inch overhang on the gable ends of roof. Roof pitches on enclosed and unenclosed porches must be approved by the zoning administrator.
- D. If the dwelling has wheels, towing mechanisms or undercarriages, they shall be removed.
- E. Compliance with the foregoing standards shall be determined by the Zoning Administrator upon review of the plans submitted, which include elevations of all sides of the dwelling, exterior dimensions, roof slopes, description of exterior finish and roofing composition, storage areas, and all other information required to be submitted under any applicable ordinance or code.

### Section 6.23 Maintenance of Junk Prohibited

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It shall be unlawful to have, possess, or maintain junk, inoperable or abandoned motor vehicles outside of a building on any property. Violations of this Section will be processed according to the procedures of Section 4.04.

### Section 6.24 Landscape Buffer

The Planning Commission may require a landscaped, greenbelt buffer that shall consist of, but not be limited to, trees, shrubs, grasses and herbaceous vegetation, exclusive of noxious weeds, where the impact of a proposed development will have a negative impact on an existing abutting parcel or parcels. If such a greenbelt is required, it shall be a twenty-five (25) foot wide landscaped greenbelt buffer established alongside and between the boundaries of the proposed development and any existing abutting parcels the Planning Commission determines could be negatively affected by the proposed development. A fifty (50) foot wide greenbelt shall be established adjacent to any public road right-of-way, which is not located within the project.

The area of the required greenbelt, which lies within the boundaries of a lot or unit, applies to the area calculation for that lot or unit. The required greenbelt areas shall be maintained perpetually in natural vegetation or landscaping, as provided above, to provide a visual buffer. The Planning Commission may modify this requirement at the end of stub streets and along phasing boundaries, provided that the intent of this Section is maintained.

### Section 6.25 Sidewalks in Residential/Commercial Developments

The Planning Commission may require the development of sidewalks in any residential (single-family or multiple-family) or commercial development subject to the following conditions:

- A. Sidewalks shall be constructed of concrete with a minimum width of five (5) feet and a minimum depth of four (4) inches and six (6) inches of reinforced concrete at driveway crossing points.

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- B. Sidewalks are to be constructed within the road right-of-way or easement one (1) foot from the right-of-way or easement line.

### **Section 6.26 Street Lighting in Residential, Commercial and Industrial Developments**

The Planning Commission may require the placement of streetlights in any residential, commercial or industrial development. Streetlights, for the purpose of this Section, may consist of poles or standards from which a light fixture is attached for the purpose of lighting a public right-of-way and/or private road easement.

### **Section 6.27 Reserved for Future Use**

### **Section 6.28 Amateur Radio Towers and Antennas, Private Receiving Television and Radio Towers**

The general purpose and intent of these regulations is to reasonably accommodate and regulate the establishment of amateur radio towers and antennas, private receiving television and radio towers and satellite antenna with a diameter not exceeding one (1) meter or 39 inches in recognition of the public need and demand for such uses and technologies. These regulations are intended only for free standing facilities that are not attached to existing buildings or residences and are subject to the following regulations:

1. Applicants for antenna installations under this Section shall conform to the application procedures used for Accessory Uses and Structures.
2. Towers and satellite antennas shall be permitted in rear and side yards only.
3. Towers shall be setback from any property line a distance equal to the tower's height measured from the base of the tower to the nearest property line. In no case shall such a tower exceed one hundred (100) feet in height. The Planning Commission may waive this required setback requirement providing the applicant

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can demonstrate with supporting engineering documentation that the fall zone for said tower is less than its height. However, a tower shall be setback from the applicable property line no less than the required minimum setback for either a side or rear yard in the zoning district in which it is located.

### Section 6.29 Open Space Preservation

1. The intent of this Section is to allow developers, at their choice, to cluster new homes on smaller lots and to provide the home sites with permanently preserved open space consistent with the open space may be, but does not necessarily need to be, left in a natural state.
2. Density for residential developments shall be the same as the number of units allowed by the underlying residential zoning district on a parcel of land, excluding unbuildable areas such as, but not necessarily limited to, wetlands, major pipeline easements and/or power line easements, etc., as specified in the Zoning Ordinance, but not on more than fifty (50) percent of the land that could be otherwise developed under existing ordinances, laws or rules on the entire land area, providing all of the following apply:
  - a. The land is zoned at a density equivalent to two (2) or fewer units per acres, or, if the land is served by a public sewer, three (3) or fewer dwelling units per acre.
  - b. Fifty (50) percent of the land will remain perpetually in an undeveloped state by means of a conservation easement, plat dedication, restrictive covenant, or other legal means that runs with the land.
  - c. The development does not depend upon the extension of public sewers or public water supply system, unless development of the land without the exercise of the option provided by this Section would also depend upon such an extension.
  - d. The option provided pursuant to this Section has not previously been exercised with respect to that land.
  - e. A fifty (50) foot greenbelt buffer area shall be established and maintained along any road, public or private, that provides access to the development

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and is not part of the open space preservation development, and a twenty-five (25) foot greenbelt buffer area shall be established and maintained along all other of the development's boundaries. In no case shall a lot or building site and/or unit occupy a greenbelt buffer area. Greenbelt buffer areas shall be established as common open space for the development, and greenbelt buffer areas can be used in the calculations of open space. Greenbelt buffer areas shall be left in their natural vegetation; however, the Planning Commission may require additional landscaping if it is deemed necessary.

3. The development of land under this Section is subject to other applicable ordinances, laws, and rules, including rules relating to the suitability of groundwater for on-site water supply for land not served by public water and rules relating to the suitability of soils for on-site sewage disposal for land not served by public sewers.
4. Land developed under Section shall include two (2) plans: the first (a parallel plan) showing the number of units developed under conventional means; and the second showing the same number of units that could be developed as a cluster development. In no case shall the number of units under this Section exceed those that could be otherwise developed under conventional means. The parallel plan shall be designed to occupy buildable land only and all lots and/or building sites shall be designed with individual on-site septic systems to be designed to accommodate the requirements of the Livingston County Health Department. The Planning Commission, in conjunction with the township's consultants as may be required by the Planning Commission, shall review the parallel plan and determine the number of lots that could be feasibly constructed according to the parallel plan. This number, as determined by the Planning Commission, shall be the maximum number of dwelling units allowable in the Open Space Preservation development.
5. The Planning Commission may modify the underlying zoning requirements for minimum lot area, lot frontage and setbacks for residential developments developed under this Section.

### **Section 6.30 Family Accessory Apartment**

#### **A. Family Accessory Apartment:**

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1. The property must conform to the dimensional requirements of the single-family minimum lot size standard as established by Section 7.10, Schedule of Regulations, Minimum Lot Area.
2. The single-family dwelling to which the family accessory apartment is being created must be owner occupied and be greater than the Minimum Dwelling Unit Floor Area listed in Section 7.10, Schedule of Regulations.
3. The living area of the family accessory apartment shall be a minimum of four hundred (400) square feet and a maximum of eight hundred (800) square feet. Size shall be determined by the total square footage of the family accessory apartment. The initial family dwelling may not be lessened by such dimensions so as to create non-compliance with paragraph 2 above.
4. No more than two (2) bedrooms are permitted in the family accessory apartment.
5. The family accessory apartment shall be designed such that the appearance of the building remains similar to that of the single-family dwelling.
6. The primary residence and the family accessory apartment must share common water and septic, approved by the Livingston County Department of Public Health and electric facilities.
7. In no case shall more than one family accessory apartment be permitted within the structure. Dormitory-type facilities and living are expressly prohibited whether seasonal or otherwise.
8. Family accessory apartment shall not be constructed or established within any detached accessory use structure, such as a garage. Only the primary residential structure may contain the family accessory apartment.
9. Off-street parking must be available for a minimum of four (4) automobiles for the entire structure. In no case shall a family accessory apartment be permitted to have a separate driveway or separate garage to accommodate its occupant(s).

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Any use granted under this section shall contain a provision, which states as follows:  
“Upon the cessation of occupancy by an immediate family member, the owner hereby acknowledges and purchasers are put on notice, that the family apartment is to be used only by immediate family members and no others, and that no variances from this provision shall be obtained permitting any other use.”

### **Section 6.31 Outdoor Wood Stoves and Outdoor Furnaces**

The Zoning Administrator may issue a land use permit waiver for an outdoor wood stove or outdoor furnace located outside a building only under the following conditions:

1. The stove/furnace shall be for the purpose of heating a dwelling and/or accessory structure(s) on the same lot.
2. The lot shall be a minimum of two (2) acres in area.
3. The stove/furnace unit shall be located a minimum of fifty (50) feet from any property line.
4. The unit shall not be located in the front or side yard.
5. The unit shall not constitute a nuisance to neighboring properties.
6. The outdoor wood-fired boiler or furnace shall not be used to burn refuse, leaves, green vegetative matter or noxious plants.
7. The homeowner/operator is required to read and follow all operating instructions supplied by the manufacturer.

### **Section 6.32 Private Solar Energy Systems**

Private Solar Energy Systems shall be permitted as an accessory use in all zoning districts, subject to the following:

- A. A land use permit from the township is required for the installation of any ground-mounted private solar energy systems. The applicant is responsible for contacting the building department to determine if a private solar energy system requires a building permit. The application shall include a scaled plot plan showing the property lines, setbacks, existing and proposed buildings and structures, road rights-of-way, wiring location, and panel information.

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- B. Ground-mounted private solar energy systems shall be located in the rear yard or side yard and shall meet the rear and side yard setbacks for accessory structures in the zoning district in which it is located.
- C. Roof-mounted private solar energy systems erected on a roof shall not extend beyond the peak of the roof. If the private solar energy system is mounted on a building in an area other than the roof, it shall not extend vertically beyond the wall on which it is mounted and shall not extend more than twelve (12) inches beyond the wall on which it is mounted.
- D. Ground-mounted private solar energy systems shall have a maximum height of twenty-five (25) feet above the ground when oriented to maximum tilt.
- E. All power transmission lines, wires, or conduits from a ground-mounted private solar energy system to any building or other structure shall be located underground.
- F. Batteries associated with private solar energy systems must be located within a secured container or enclosure.
- G. Solar energy systems that are damaged shall be replaced or removed in a timely manner.
- H. Signage shall be provided in a visible location with disconnection procedures for emergency first responders.
- I. All private solar energy systems, including BIPVs, ground-mounted, and structure-mounted, shall conform to applicable County, State, and Federal laws and regulations and safety requirements including Michigan building codes.
- J. Private solar energy systems that have been abandoned for a period of one (1) year shall be removed by the property owner within six (6) months of the date of abandonment.

**ARTICLE VII: ZONING DISTRICTS AND MAP**

**Section 7.01 Establishment of Districts**

For the purpose of this Ordinance, the Township is hereby divided into the following zoning districts, which shall be known by the following respective symbols and names.

- RR: Rural Residential District
- SR: Suburban Residential District
- UR: Urban Residential District
- ERS-1: Existing Residential Subdivision District
- ERS-2: Existing Residential Subdivision District
- MHP: Mobile Home Park
- HS: Highway Service District
- LI: Light Industrial District
- PL: Public Lands District

**Other Areas**

- PUD: Planned Unit Development Overlay District
- SFO: Solar Farm Overlay District
- WPA: Wellhead Protection Area

**Section 7.02 Zoning District Map**

The boundaries of the respective districts enumerated in Section 7.01 are defined and established as depicted on the Official Zoning Map entitled MARION TOWNSHIP ZONING MAP that is an integral part of this Ordinance. This map, with all notations and explanatory matter thereon, shall be published as part of this Ordinance as if fully described herein.

## Article X: Industrial Districts

The Official Zoning Map shall be identified by the signature of the Township Supervisor, attested by the Township Clerk, and bearing the following:

This is to certify that this is the Official Zoning Map of the Township Zoning Ordinance adopted on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_. If, in accordance with the provisions of this Ordinance, changes are made in district boundaries or other matter portrayed on the Official Zoning Map, such changes shall be made on the Official Zoning Map after the amendment has been approved by the Township Board together with an entry on the Official Zoning Map as follows: On (date), by official action of the Township Board, the following change(s) were made: (brief description of changes).

Two (2) copies of the Official Zoning Map are to be maintained and kept up-to-date, one (1) in the Township Clerk's office, and one (1) in the Zoning Administrator's office.

### Section 7.03 Replacement of Official Zoning Map

In the event that the Official Zoning Map becomes damaged, destroyed, lost or difficult to interpret because of the nature or number of changes made thereto, the Township Board may, by Ordinance, adopt a new Official Zoning Map that shall supersede the prior Official Zoning Map. The Official Zoning Map shall be identified by the signature of the Township Supervisor, attested by the Township Clerk and bear the seal of the Township under the following words:

This is to certify that this is the Official Zoning Map referred to in the Zoning Ordinance of the Township adopted on \_\_\_\_\_, 20\_\_\_. Which replaces and supersedes the Official Zoning Map which was adopted on \_\_\_\_\_, 20\_\_\_. Unless the prior Official Zoning Map has been lost, or has been totally destroyed, the prior map or any significant parts thereof remaining shall be preserved together with all available records pertaining to its adoption or amendment.

**Section 7.04 Interpretation of District Boundaries**

Where, due to the scale, lack of details, or illegibility of the Official Zoning Map, there is an uncertainty, contradiction, or conflict as to the intended location of any zoning district boundaries shown thereon, interpretation concerning the exact location of district boundary lines shall be determined, upon written application, by the Board of Appeals. The Board of Appeals, in arriving at a decision on such matters, shall apply the following standards:

- A. Boundaries indicated, as approximately following the centerline street or highway shall be construed to follow the centerline of said street or highway.
- B. Boundaries indicated, as approximately following a recorded lot or parcel line shall be construed as following such line.
- C. Boundaries indicated, as approximately following a Township boundary line shall be construed as following such Township boundary line.
- D. Boundaries indicated, as approximately following a railroad right-of-way shall be construed to be midway between the main tracks.
- E. Boundaries following the shoreline of a stream, lake, or other body of water shall be construed to follow such shorelines, and in the event of change in the shorelines shall be construed as moving with the actual shorelines; boundaries indicated as approximately following the thread of streams, canals, or other bodies of water shall be construed to follow such threads.
- F. Boundaries indicated as approximately parallel to or extensions of features indicated in subsections A. through D., above, shall be so construed. Distances not specifically indicated on the Official Zoning Map shall be determined by the scale on the map.

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- G. Where the application of the aforesaid rules leaves a reasonable doubt as to the boundaries between two (2) districts, the regulations of the more restrictive district shall govern the entire parcel in question, unless otherwise determined by the Board of Appeals, after recommendation from the Planning Commission.

### Section 7.05 Scope of Regulation

- A. Except as may otherwise be provided in this Ordinance, every building and structure erected, every use of any lot, building, or structure established, every structural alteration or relocation of an existing building or structure occurring, and every enlargement of, or addition to an existing use, building and structure occurring after the effective date of this Ordinance shall be subject to all regulations of this Ordinance which are applicable in the Zoning District in which such use, building, or structure shall be located.
- B. Any use of land not specifically permitted is prohibited, except that the Board of Appeals shall have the power to classify a use which is not specifically mentioned along with a comparable permitted or prohibited use for the purpose of clarifying the use regulations in any district, if so petitioned and in accord with the requirements of Section 5.05.B.3. If the Board of Appeals finds no comparable uses based on an examination of the characteristics of the proposed use, it shall so state and the Planning Commission may be petitioned to initiate an amendment to the text of the Ordinance to establish the appropriate district(s), type of use (by right or special use), and criteria that will apply for that use. Once the Ordinance has been amended to include the new regulations, then an application can be processed to establish that use.
- C. No part of a setback area, or other open space, or off-street parking or loading space required about or in connection with any use, building or structure, for the purpose of complying with this Ordinance, shall be included as part of a setback area, open space, or off-street parking or loading space similarly required for any other use, building or structure.

## **Article X: Industrial Districts**

- D. No setback area or lot existing at the time of adoption of this Ordinance shall be reduced in dimensions or area below the minimum requirements set forth herein. Yards or lots created after the effective date of this Ordinance shall meet at least the minimum requirements established herein.
  
- E. No part of any lot, once established and/or improved with a building or structure, shall thereafter be divided or reduced in size unless such division or reduction conforms to all applicable Marion Township ordinances.
  
- F. Accessory uses are permitted as indicated for the various Zoning Districts and if such uses are clearly incidental to the permitted principal use. (See also Section 6.07.)

### **Section 7.06 Zoning of Vacated Areas**

Whenever any street, alley or other public way within the Township shall have been vacated by official governmental action and when the lands within the boundaries thereof attach to and become a part of lands adjoining such street, alley or public way, such lands shall automatically acquire and be subject to the same zoning regulations as are applicable to lands to which the same shall attach, and shall be used for those uses as permitted under this Ordinance for such adjoining lands.

### **Section 7.07 Zoning of Filled Lands: Use of Water**

No fill shall be placed in any state regulated wetland, lake or stream without proof of a valid permit from the Michigan Department of Environmental Quality. Whenever any fill is placed in any lake or stream, the land so created shall automatically acquire and be subject to the same zoning regulations as are applicable for lands to which the same shall attach or be adjacent, and the same be used for those purposes as are permitted under this Ordinance for such adjoining lands. No use of the surface of any lake or stream shall be permitted for any purpose not permitted on the land from which the use emanates.

**Section 7.08 Conflicting Regulations**

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

**Section 7.09 Categories within Zoning Districts**

In order to ensure all possible benefits and protection for the zoning districts in this Ordinance, the land uses have been classified into two (2) categories:

- A. **Uses Permitted by Right:** The primary uses and structures specified for which the zoning district has been established.
  
- B. **Uses Permitted By Special Use Permit:** Uses and structures which have been generally accepted as reasonably compatible with the primary uses and structures within the zoning district, but could present potential injurious effects upon the primary uses and structures within the zoning district and therefore require special consideration in relation to the welfare of adjacent properties and to the community as a whole. All such proposed uses shall be subject to a public hearing and review by the Planning Commission. (Refer to Article XVI.)

**Section 7.10            Schedule of Regulations**

The requirements in the following table entitled "Schedule of Regulations" shall apply to all lands, uses, buildings and structures within each zoning district, except as otherwise

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established in this Ordinance. Owners of nonconforming lots of record should refer to Section 19.02 as well. Variances may be granted by the Board of Appeals only upon a showing of practical difficulty related to a unique characteristic of the land and not to self-created hardships of the owner. (See Section 5.05.C.)

## ARTICLE VIII: RESIDENTIAL DISTRICTS

### Section 8.01 RR: Rural Residential District

- A. **Intent:** It is the intent of the Rural Residential District (RR) to provide for a variety of comparatively low-density residential lifestyles in a manner which preserves the important open spaces and natural resources of the Township and the Township's rural character. The expanses of open spaces and natural resources, including woodlands, wetlands, hillsides, and fields, comprise the fundamental rural character of the Township which residents of the Township wish to protect and enhance for future generations. Permitted land uses within this District are established based on the limited availability of public services. Where higher density is allowed, certain facilities are required to accommodate the increased public needs. The Rural Residential District includes a considerable number of existing farms and recognizes this land use for its important contribution to the local economic base, to the provision of food and fiber for the State's citizens, and for the historical character and open spaces it provides. It is not the intent of this District to encourage the conversion of agricultural lands to more intensive uses, but to provide opportunities for residential development in a manner compatible with the continuation of agricultural activities. However, neither is it the intent of this District to encourage the establishment of more intensive agricultural uses, such as confined livestock operations, which are incompatible with residential use of adjoining lands.

- B. **Uses Permitted By Right:**

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1. Single-family dwellings.
2. Agricultural buildings and agricultural operations involving no more than two hundred (200) animal units at a density not to exceed 1.4 animal units per acre.
3. Nursery operation of retail sales of nursery stock grown on the site.
4. Public or private conservation areas, parks, game refuges, and similar uses.
5. Family child care homes.
6. Adult foster care family homes.
7. Accessory buildings.

### **C. Permitted Accessory Uses:**

1. Accessory uses or structures, clearly incidental to the operation of an existing farm, including:
  - a. Agricultural buildings, pole barns, sheds, and similar structures customarily incidental to the permitted principal use.
  - b. Outdoor storage of equipment and materials limited to farm machinery, implements, and related material provided that such storage does not constitute junk nor create a nuisance for abutting

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property owners. Storage activities shall be subject to the minimum setback requirements of the district.

2. Uses typically associated with single-family residences, including swimming pools and automobile parking.
3. Home Occupation.

### D. Uses Permitted By Right Subject to Special Conditions

1. Private stables subject to the following conditions:
  - a. A minimum of three (3) acres must be provided for the first horse, and an additional one-half ( $\frac{1}{2}$ ) acre must be provided for each additional horse not to exceed six (6) horses.
  - b. Foals born on parcels where horses are presently kept may be kept on said parcel for two (2) years even though such additional horses may increase the number of horses on such parcel beyond the acreage limitation, but in no case shall there be more than one (1) horse and one (1) foal per one-half acre.
  - c. No agricultural building for housing animals, pens or corrals shall be located closer than seventy-five (75) feet from any lot line or closer than seventy-five (75) feet from an existing and adjacent dwelling unit or from any road right of way. Pastures may be fenced to the perimeter of the property line, providing that they meet the definition of a pasture.

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- d. Private stables shall only house horses owned by the owner of the property.
- e. Private stables shall be operated in conformance with all applicable county, state and federal regulations.
- f. All animals shall be maintained in a healthy condition and carefully handled.
- g. Agricultural buildings, pens, corrals and pastures shall be maintained so that odor, dust, noise or water drainage shall not constitute a nuisance or hazard to adjoining premises.
- h. Inspections of stables may be conducted at any reasonable time by authorized Township representatives or by any other state or local agency having authority to conduct an inspection.
- i. Manure shall be stored, removed, and/or applied to the soil in accordance with Michigan Department of Agriculture and Livingston County Health Department regulations.
- j. An enclosed structure is required and must have at least one 10' x 10' stall for each horse. Shelter shall be provided for all horses, including a mare and foal, which may include but not be limited to a lean to or wind block of adequate size for animals to get out of inclement weather.
- k. No living quarters shall be located in any arena building or stable.

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### E. **Uses Permitted By Special Use Permit: (See specific provisions in Article XVII)**

1. Public facilities, including municipal buildings, schools, libraries, recreational facilities, and similar uses and activities.
2. Public, parochial, and private elementary, intermediate and/or high schools, and institutions of higher learning, offering courses in general education.
3. Agricultural processing and distribution.
4. Bed and breakfast establishments.
5. Campgrounds.
6. Cemeteries and/or mausoleums.
7. Child care centers.
8. Churches or religious institutions.
9. Kennels.
10. Communication towers.
11. Excavation operations.

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12. Farm markets.
13. Group child care homes.
14. Golf courses and country clubs.
15. Private recreational facilities.
16. Stables (Commercial).
17. Shooting ranges, including gun, rifle, skeet, trap, pistol and archery clubs.
18. Veterinarian clinics.
19. Community wastewater utility systems, as defined by Section 3.02 of this ordinance, subject to the standards found in Section 17.31.
20. Home-based Business.
21. Agricultural-based Tourism/Entertainment Activities

F. **Site Development Requirements:** The following minimum and maximum standards shall apply to all uses and structures in the RR: Rural Residential District unless they are specifically modified by the provisions of Article VI: General Provisions; Article XVII: Standards for Specific Special Land Uses; or

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Article XVIII: Planned Unit Developments, or as varied pursuant to Article V, Zoning Board of Appeals.

### 1. Minimum Lot Area:

- a. **Unplatted Parcel Division:** No building or structure shall be established on a parcel less than two (2) acres.
- b. **Platted Lot or Condominium Unit:** No building or structure shall be established on a lot or unit less than (1) acre.

### 2. Minimum Frontage:

- a. **Unplatted Parcel Division:** Each parcel shall have a frontage of not less than one hundred fifty (150) feet.
- b. **Platted Lot or Condominium Unit:** Each lot or unit shall have a frontage of not less than one hundred twenty (120) feet.

### 3. Yard and Setback Requirements:

- a. **Front yard:** Seventy (70) feet from the road right-of-way line, except that a setback of one hundred (100) feet from the Pinckney Road right-of-way line shall be required.
- b. **Side yards:** Fifteen (15) feet.
- c. **Rear yard:** Twenty-five (25) feet.

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- d. No agricultural buildings for housing animals, pens, or corrals shall be located closer than two hundred (200) feet from all lot lines or less than one hundred fifty (150) feet from all street right-of-way lines; provided further than the minimum side yard setback shall be reduced one (1) foot for each additional foot that the barn, pen or corral is set back from the existing right-of-way over one hundred fifty (150) feet; provided further that the side yard setback shall not be reduced below a minimum of fifty (50) feet.
4. **Maximum Lot Coverage:** Thirty-five (35) percent.
5. **Maximum Height:** Unless otherwise provided in this Ordinance, no principal building shall exceed a height of thirty-five (35) feet measured from the finished grade.
6. The Planning Commission may require a landscaped, greenbelt buffer that shall consist of, but not be limited to, trees, shrubs, grasses and herbaceous vegetation, exclusive of noxious weeds, where the impact of a proposed development will have a negative impact on an existing, abutting parcel or parcels. If such a greenbelt is required, it shall be a twenty-five (25) foot wide landscaped greenbelt buffer established alongside and between the boundaries of the proposed development and any existing abutting parcels the Planning Commission determines could be negatively affected by the proposed development. A fifty (50) foot wide greenbelt shall be established adjacent to any public road right of way which is not located within the project.

The area of the required greenbelt, which lies within the boundaries of a lot or unit, applies to the area calculation for that lot or unit. The required greenbelt areas shall be maintained perpetually in natural vegetation or landscaping, as provided above, to provide a visual buffer. The Planning Commission may modify this requirement at the end of stub streets and

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along phasing boundaries, provided that the intent of this Section is maintained.

7. No lots or units shall be permitted driveway access from a road that is not an interior private road of the plat, condominium or development.
8. **Provisions of Article XIV: Parking and Loading Requirements.**
9. **Provisions of Article XV: Signs.**

### Section 8.02 SR: Suburban Residential District

- A. **Intent:** It is the intent of the Suburban Residential District (SR) to provide opportunities for higher density residential development typically associated with a suburban land use pattern. This district includes areas of the Township, which are currently served by a higher level of public services as compared to most of the balance of the Township, and these additional services permit a higher intensity of residential development while protecting the public health, safety, and welfare. This District is intended to implement the planned future land use pattern of the Marion Township Master Plan in the northern portion of the Township where a Suburban Residential Area is proposed and intended to accommodate residential developments of a density of one (1) dwelling unit per .75 acre or greater. The Suburban Residential District is intended to both permit the development of suitable vacant land for residential purposes while also preserving the residential character of existing area neighborhoods. The Suburban Residential District includes crop operations and recognizes this land use for its important contribution to the local economic base, to the provision of food and fiber for the state's citizens, and for the historical character and open spaces it provides without having a negative impact on neighboring residential uses.
- B. **Uses Permitted By Right:**

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1. Single-family dwellings.
2. Family child care homes.
3. Adult foster care family homes.
4. Accessory buildings.
5. Crop operations.
6. Nursery operation of retail sales of nursery stock grown on the site.

### C. **Permitted Accessory Uses:**

1. Uses typically associated with single-family residences, including swimming pools and automobile parking.
2. Home Occupation.

### D. **Uses Permitted By Right Subject to Special Conditions:**

1. Private stables subject to the following conditions:
  - a. A minimum of three (3) acres must be provided for the first horse, and an additional one-half ( $\frac{1}{2}$ ) acre must be provided for each additional horse not to exceed four (4) horses.

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- b. Foals born on parcels where horses are presently kept may be kept on said parcel for two (2) years even though such additional horses may increase the number of horses on such parcel beyond the acreage limitation, but in no case shall there be more than one (1) horse and one (1) foal per one-half acre.
- c. No agricultural building for housing animals, pens or corrals shall be located closer than seventy-five (75) feet from any lot line or closer than seventy-five (75) feet from an existing and adjacent dwelling unit or from any road right of way. Pastures may be fenced to the perimeter of the property line, providing that they meet the definition of a pasture.
- d. Private stables shall only house horses owned by the owner of the property.
- e. Private stables shall be operated in conformance with all applicable county, state and federal regulations.
- f. All animals shall be maintained in a healthy condition and carefully handled.
- g. Agricultural buildings, pens, corrals and pastures shall be maintained so that odor, dust, noise or water drainage shall not constitute a nuisance or hazard to adjoining premises.
- h. Inspections of stables may be conducted at any reasonable time by authorized Township representatives or by any other state or local agency having authority to conduct an inspection.

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- i. Manure shall be stored, removed, and/or applied to the soil in accordance with Michigan Department of Agriculture and Livingston County Health Department regulations.
- j. An enclosed structure is required and must have at least one 10' x 10' stall for each horse. Shelter shall be provided for all horses, including a mare and foal, which may include but not be limited to a lean to or wind block of adequate size for animals to get out of inclement weather.
- k. No living quarters shall be located in any arena building or stable.

### **E. Uses Permitted By Special Use Permit:**

- 1. Public facilities, including parks, municipal buildings, schools, libraries, recreational facilities, and similar uses and activities.
- 2. Public, parochial, and private elementary, intermediate and/or high schools, and institutions of higher learning, offering courses in general education.
- 3. Bed and breakfast establishments.
- 4. Cemeteries and/or mausoleums.
- 5. Child care centers.
- 6. Churches and religious institutions.

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7. Communication towers.
8. Group child care homes.
9. Golf courses and country clubs.
10. Kennels.
11. Private recreational facilities.
12. Two-family dwellings.
13. Community wastewater utility systems, as defined in Section 3.02 of this ordinance, subject to the standards found in Section 17.31.
14. Home-based Business
15. Hospital
16. Adult foster care small group homes.
17. Adult foster care large group homes.
18. Farm Market
19. Agricultural-based Tourism/Entertainment Activities

F. **Site Development Requirements:** The following minimum and maximum standards shall apply to all uses and structures in the SR: Suburban Residential District unless they are specifically modified by the provisions of Article VI: General Provisions; or Article XVII: Standards for Specific Special Land Uses; or as varied pursuant to Article V: Zoning Board of Appeals.

1. **Minimum Net Lot Area:**

- a. No building or structure shall be established on a parcel less than 32,670 square feet (0.75 acre).
- b. A building or structure with public sewer may be established on a parcel of not less than 20,000 square feet providing the frontage of said parcel is not on a major thoroughfare.

**(Amended 3-25-03)**

2. **Minimum Frontage:**

- a. **Unplatted Parcel Division:** Each parcel shall have frontage of not less than one hundred twenty (120) feet where public sewer is not available. Where public sewer is available, one hundred (100) feet minimum frontage is required.
- b. **Platted Lot or Condominium Unit:** Each lot or unit shall have a frontage of not less than one hundred (100) feet where public sewer is not available. Where public sewer is available, eighty-five (85) feet of frontage is required.

**3. Yard and Setback Requirements:**

**a. Parcel Splits**

- 1) **Front yard:** Seventy (70) feet from the road right-of-way line.
- 2) **Side yard:** Fifteen (15) feet.
- 3) **Rear yard:** Twenty-five (25) feet.
- 4) In no case shall any setback be less than one hundred (100) feet from the Pinckney Road right-of-way line.

**b. Subdivisions and Single-Family Condominium Projects**

- 1) **Front yard:** Thirty-five (35) feet from the road right-of-way line.
- 2) **Side yard:** Fifteen (15) feet.
- 3) **Rear yard:** Twenty-five (25) feet.
- 4) In no case shall any setback be less than one hundred (100) feet from the Pinckney Road right-of-way line.

**4. Maximum Lot Coverage:** Thirty-five (35) percent.

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5. **Maximum Height:** Unless otherwise provided in this Ordinance, no principal building shall exceed a height of thirty-five (35) feet measured from the finished grade.
  
6. The Planning Commission may require a landscaped, greenbelt buffer that shall consist of, but not be limited to, trees, shrubs, grasses and herbaceous vegetation, exclusive of noxious weeds, where the impact of a proposed development will have a negative impact on an existing, abutting parcel or parcels. If such a greenbelt is required, it shall be a twenty-five (25) foot wide landscaped greenbelt buffer established alongside and between the boundaries of the proposed development and any existing abutting parcels the Planning Commission determines could be negatively affected by the proposed development. A fifty (50) foot wide greenbelt shall be established adjacent to any public road right of way which is not located within the project.

The area of the required greenbelt, which lies within the boundaries of a lot or unit, applies to the area calculation for that lot or unit. The required greenbelt areas shall be maintained perpetually in natural vegetation or landscaping, as provided above, to provide a visual buffer. The Planning Commission may modify this requirement at the end of stub streets and along phasing boundaries, provided that the intent of this Section is maintained.

7. No lots or units shall be permitted driveway access from a road that is not an interior private road of the plat, condominium or development.
  
8. **Provisions of Article XIV:** Parking and Loading Requirements.
  
9. **Provisions of Article XV:** Signs.

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10. **Provisions of Article XVIII:** Site Plan requirements for condominium projects. Subdivision Control Ordinance requirements for platted subdivisions.

### Section 8.03 UR: Urban Residential District

A. **Intent:** It is the intent of the Urban Residential District (UR) to provide for housing densities of a more urban character than otherwise permitted in other Zoning districts established in this Ordinance. Permitted land uses within this district are established based on the greater availability of public services (public water and sewer facilities) within this district which are capable of accommodating the particular demands of higher density residential land uses. It is the intent of this district to stabilize, protect, and encourage the residential character of the district and prohibit activities not compatible with high-density single-family and multiple-family residences. The Urban Residential District is intended to exist only within the Urban Services District identified in the Marion Township Master Plan as it is only here that the public services are expected to be adequate to accommodate the needs of these higher intensity land uses. This district is not intended to be established within any portion of the Urban Services District where existing public services are not adequate to address the demands of these more intensive land uses unless the necessary services are also established concurrent with the establishment of the land use.

B. **Uses Permitted By Right:**

1. Single-family dwellings.
2. Family child care homes.
3. Adult foster care family homes.
4. Accessory buildings.

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5. Two-family dwellings subject to conditions found in Section 17.29.

### C. Permitted Accessory Uses:

1. Accessory uses or structures clearly incidental to residences, including swimming pools and automobile parking.
2. Home Occupation.

### D. Uses Permitted By Special Use Permit:

1. Public facilities, including cemeteries, parks, schools, libraries, and recreational facilities, similar uses and activities.
2. Public, parochial, and private elementary, intermediate and/or high schools, and institutions of higher learning, offering courses in general education.
3. Adult foster care small group homes.
4. Adult foster care large group homes.
5. Bed and breakfast establishments.
6. Churches and religious buildings.

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7. Child care centers.
8. Communication towers.
9. Golf courses and country clubs.
10. Group child care homes.
11. Hospitals.
12. Multiple-family dwellings.
13. Nursing or convalescent homes.
14. Private recreational facilities.

E. **Site Development Requirements:** The following minimum and maximum standards shall apply to all uses and structures in the UR: Urban Residential District unless they are specifically modified by the provisions of Article VI: General Provisions or Article XVII: Standards for Specific Special Land Uses; or as varied pursuant to Article V: Zoning Board of Appeals.

1. **Minimum Lot Area:** No building or structure shall be established on any parcel less than fifteen thousand (15,000) square feet.
2. **Minimum Frontage:** Each parcel of land shall have a frontage of not less than seventy-five (75) feet.

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3. **Yard and Setback Requirements:**
  - a. **Front yard:** Thirty (30) feet.
  - b. **Side yard:** Fifteen (15) feet.
  - c. **Rear yard:** Twenty-five (25) feet.
  - d. In no case shall any setback be less than one hundred (100) feet from the Pinckney Road right-of-way line.
4. **Maximum Lot Coverage:** Thirty-five (35) percent.
5. **Maximum Height:** Unless otherwise provided in this Ordinance, no principal building shall exceed a height of thirty-five (35) feet measured from the finished grade.

### Section 8.04 ERS: Existing Residential Subdivision District

- A. **Intent:** It is the intent of the Existing Residential Subdivision District (ERS) to recognize the existence of existing platted residential subdivisions, developed prior to the adoption of this Ordinance, and to protect the character of these existing residential developments and hence the investment in them by current owners. The inclusion of these existing residential developments within other residential zoning districts of this Ordinance would result in the creation of a substantial number of nonconforming lots. The resulting large number of nonconforming lots could possibly place extraordinary burden upon the landowners and the Marion Township Zoning Board of Appeals and Township staff in the administration of future variance requests and appeals associated with these nonconforming lots. It is the intent of this District to recognize these residential developments as legitimate and conforming uses and provide for the continuance of these uses and their current character. Two sub districts of the Existing Residential Subdivision District are established in recognition of the

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development densities associated with these existing platted residential lots and the resulting unique character associated with each development density. It is the intent of this Ordinance that no new ERS Districts be established after the effective date of this Ordinance.

**B. Uses Permitted By Right:** The following uses are permitted by right within all sub districts of the Existing Residential Subdivision District:

1. Single-family dwellings.
2. Family child care homes.
3. Adult foster care family homes.
4. Accessory buildings.

**C. Permitted Accessory Uses:**

1. Accessory uses or structures clearly incidental to a residence, including swimming pools and automobile parking.
2. Home Occupation.

**D. Uses Permitted by Special Use Permit:** (See specific provisions of Article XVII.)

1. Group child care homes.

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E. **Site Development Requirements:** The following minimum and maximum standards shall apply to all uses and structures in the ERS: Existing Residential District unless specifically modified by the provisions of Article VI: General Provisions or Article XVII: Standards for Specific Special Land Uses; or as varied pursuant to Article V: Zoning Board of Appeals.

1. **Minimum Lot Area:** No single-family dwelling or structure shall be established on any parcel of a size less than the following, for the sub district the parcel is located within:
  - a. ERS-1: Eighteen thousand (18,000) square feet.
  - b. ERS-2: One (1) acre.
2. **Minimum Frontage:** Each parcel shall have continuous frontage of not less than the following, for the sub district, which the parcel is located within:
  - a. ERS-1: Fifty (50) feet.
  - b. ERS-2: One hundred (100) feet.
3. **Yard Setback Requirements:**

Lots having lake frontage shall provide the required front yard along the lakeside of the property. Lots having lake frontage shall provide the required rear yard along the road right-of-way. The yard on the lake side shall be maintained as an undeveloped yard. Accessory structures shall not be permitted within the required setback between the abutting road right-of-way and the principal building. (See Article III Definitions, Figure

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3-9)

a. **ERS-1:**

- 1) **Front yard:** Fifty (50) feet.
- 2) **Side yard:** Ten (10) feet.
- 3) **Rear yard:** Twenty-five (25) feet.

b. **ERS-2:**

- 1) **Front yard:** One hundred (100) feet.
- 2) **Side yard:** Fifteen (15) feet.
- 3) **Rear yard:** Twenty-five (25) feet.

4. **Maximum Height:** Unless otherwise provided in this Ordinance, no principal building shall exceed a height of thirty-five (35) feet measured from the finished grade.
5. **Maximum Lot Coverage:** Thirty-five (35) percent.

### Section 8.05 MHP, Manufactured Home Park District

- A. **Intent:** The purpose of the Manufactured Home Park District is to encourage a suitable environment for persons and families that choose to live in a manufactured

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home rather than a site-built one-family residence. Development is limited to mobile homes when located in and designed for the purpose of a manufactured home park with recreational facilities and necessary public utility buildings.

**B. Principal Uses Permitted:** The following uses of land and structures shall be permitted by right in the MHP, Manufactured Home Park District:

1. Mobile home parks subject to the requirements of the Mobile Home Commission Act, Act 96 of Public Acts of 1987, as amended, and the rules of the Mobile Home Commission.
2. Manufactured home subdivision subject to the Subdivision Control Act, Act 288 of the Public Acts of 1967, The Marion Township Subdivision Control Ordinance and all other applicable acts, rules, and regulations.
3. Family child care homes.
4. Adult foster care family homes.
5. Home Occupation in accordance with Section 6.14.

**C. Manufactured Home Park Regulations:** The development of a manufactured home park shall meet the requirements of the Michigan Mobile Home Commission Act, Act 96 of the Public Acts of 1987, as amended, and the Rules of the Mobile Commission.

**D. Site Plan Review:** All principal uses listed above are subject further to the requirements and provisions of Article XVIII, Site Plan Requirements and any other applicable regulations included in this Ordinance.

**E. Area and Size Requirements:** See Section 7.10, Schedule of Regulations, limiting the height and size of buildings, along with the following:

- **Article XIV:** Off-Street Parking
- **Article XV:** Signs

**ARTICLE IX: COMMERCIAL DISTRICTS**

**Section 9.01**

**HS: Highway Service District**

A. **Intent:** The Highway Service District (HS) is intended to accommodate retail business and service activities which serve the particular needs of the highway traveler and/or meet the consumer needs of a more regional population than that of Marion Township, and, therefore, the access to arterial thoroughfares is critical. The intent of this District is to provide for retail businesses, personal, and business service establishments and small warehouses developed along major arterial roads in a fashion that minimizes traffic congestion, traffic conflicts, and traffic hazards. It is not the intent of this District to provide for general retail and related commercial uses that cater more to local consumer needs; such needs are extensively addressed by the commercial services available in nearby City of Howell.

**B. Uses Permitted By Right:**

In the Highway Service District, no building or land shall be used and no building or structure erected except for one or more of the following specified uses, unless otherwise provided for in this Ordinance. All uses permitted in this district are subject to the requirements and standards of Site Plan Review (Article XVIII) prior to initiation of the use or structure.

1. Professional offices, medical and dental clinics.
2. Standard restaurants, clubs, and other drinking establishments that provide food or drink for consumption on the premises and may also provide dancing and entertainment.
3. Automobile dealerships.
4. Automobile car washes.

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5. Convenience stores.
6. Indoor commercial recreation facilities such as indoor theaters, bowling alleys, indoor skating rinks, or similar uses.
7. Catering, bakeries.
8. Monument sales and manufacturing.
9. Mini-storage facilities.
10. Household equipment rentals.
11. Wholesale distribution.
12. Cabinet making.
13. Hardware stores.
14. Contractor storage yards.
15. Accessory buildings.
16. Funeral homes subject to additional requirements found in Section 9.01 E 10.

## **Article X: Industrial Districts**

17. Crematories subject to additional requirements found in Section 9.01 E 11.

### **C. Permitted Accessory Uses:**

1. Signs; pursuant to Article XV.
2. Automobile parking; pursuant to Article XIV.

### **D. Uses Permitted By Special Use Permit:**

1. Public facilities, including municipal buildings, schools, libraries, recreational facilities, and similar uses and activities.
2. Automobile repair garage.
3. Automobile fueling/mixed-use station.
4. Billboards.
5. Communication towers.
6. Drive-in establishments including but not limited to: drive-in, drive-through, take-out, pick-up, and other forms of in-vehicle retail or service establishments including restaurants, financial institutions, dry cleaning businesses, and similar facilities.
7. Motels and hotels.

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8. Open air business uses such as retail sales of plant materials, sale of lawn furniture, playground equipment and garden supplies.
  9. Outdoor commercial recreation facilities.
  10. Adult Entertainment Uses (***Amended 10/2000***)
  11. Outdoor vehicle storage, subject to additional requirements found in Section 17.34.
- E. **Site Development Requirements:** The following minimum and maximum standards shall apply to all uses and structures in the HS: Highway Service District unless they are specifically modified by the provisions of Article VI: General Provisions or Article XVII: Standards for Specific Special Land Uses; or as varied pursuant to Article V: Zoning Board of Appeals.
1. **Minimum Lot Area:** No building or structure shall be established on any parcel less than one (1) acre.
  2. **Minimum Frontage:** Each parcel of land shall have frontage of not less than one hundred fifty (150) feet.
  3. **Yard and Setback Requirements:**
    - a. **Front yard:** Eighty (80) feet, except that a setback of one hundred (100) feet from the Pinckney Road right-of-way line shall be required.

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b. **Side yards:** Twenty-five (25) feet, except in the case where a lot abuts a residential zoning district, in which case the minimum required side yard shall be thirty-five (35) feet and screening shall be provided in accordance with Section 6.13 B.

c. **Rear Yard:** Forty (40) feet.

4. **Maximum Lot Coverage:** Forty (40) percent.

5. **Maximum Height:** Unless otherwise provided in this Ordinance, no principal building shall exceed a height of thirty-five (35) feet measured from the finished grade.

6. **Performance Standards:**

a. Storage of materials or goods shall be enclosed entirely within a building or shall be enclosed so as not to be visible to the public from any abutting residential district or public street.

b. Vehicle ingress and egress points shall not be closer than seventy-five (75) feet to the intersection of any two (2) public streets or closer than thirty (30) feet to an adjacent driveway.

c. No major repairs or refinishing shall be done outside of the principal building.

d. No lighting shall in any way impair the safe movement of traffic on any street or highway.

e. There must be sufficient on-site storage to accommodate at least two (2) queued vehicles waiting to park or exit the site without using

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any portion of the public street right-of-way or in any other way interfering with street traffic.

- f. Screening at least three (3) feet in height shall be erected to prevent headlight glare from shining onto adjacent residential property. No screening shall in any way impair safe vertical or horizontal sight distance for any moving vehicles.
  - g. Material that is normally and reasonably discarded from commercial uses of property may be stored outside of an enclosed building for a reasonable time provided that such storage areas are completely screened by an opaque fence of not less than five (5) feet in height.
- 7. **Provisions of Article XIV: Parking and Loading Requirements.**
  - 8. **Provisions of Article XV: Signs.**
  - 9. **Provisions of Article XVIII: Site Plan Requirements.**
  - 10. Funeral homes are subject to the following additional requirements:
    - a. A well-designed and landscaped off-street vehicle assembly area shall be provided to be used in support of funeral procession activity. This area shall be in addition to the required off-street parking and its related maneuvering area and shall not obstruct internal circulation within the required off-street parking area or its related maneuvering space.
    - b. A caretaker's residence may be provided within the principal building.
  - 11. Crematories are subject to the following additional requirements:

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- a. The cremation unit shall be within a fully enclosed permanent structure. All exterior venting stack(s) must be screened or designed as an integral part of the building roofline.
- b. The crematorium must be so operated so as not to produce hazardous, objectionable or offensive conditions at or beyond the property line boundaries by reason of odor, dust, lint, smoke, cinders, fumes, noise, vibration, heat, solid and liquid wastes, fire or explosion and must satisfy all state and federal licensing requirements.
- c. The cremation unit (and operation of the unit) must conform to all state and federal regulations pertaining to environmental quality and any other health and public safety requirements.
- d. Restrictions may be placed on amount of traffic and hours of operation of the facility in order to ensure compatibility and minimize impacts with surrounding land uses.

## ARTICLE X: INDUSTRIAL DISTRICTS

### Section 10.01 LI: Light Industrial District

- A. **Intent:** It is the intent of the Light Industrial District (LI) to provide for a variety of light industrial uses, including manufacturing, processing, assembling, packaging, or treatment of products from previously prepared materials, as well as commercial establishments not engaging primarily in retail sales. Such industrial areas should be free of incompatible uses, and designed to avoid negatively impacting adjacent conforming uses.
- B. **Uses Permitted By Right:**

In the Light Industrial District, no building or land shall be used and no building or structure erected except for one or more of the following specified uses, unless

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otherwise provided for in this Ordinance. All uses permitted in this district are subject to the requirements and standards of Article XVIII, Site Plan Requirements prior to initiation of the use or structure.

The following are uses permitted by right when conducted in a permanent fully enclosed building:

1. Light industrial establishments that perform assembly, fabrication, compounding, manufacture, or treatment of materials, goods, and products, including, but not limited to:
  - a. Jobbing and machine shops.
  - b. Fabricated metal products.
  - c. Plastic products, forming and molding.
  - d. Processing of machine parts.
  - e. Monument and art stone production.
  - f. Industrial laundry operations.
  - g. Wood products processing facility.
  - h. Printing and publishing.

## Article X: Industrial Districts

2. Storage facilities for building materials, sand, gravel, stone, lumber, and contractor's equipment.
3. Grain and feed elevators, bulk blending plants and/or handling of liquid nitrogen fertilizer and anhydrous ammonia.
4. Commercial uses not primarily involved in retail sales as a primary use, including but not limited to building material suppliers (excluding concrete mixing), retail lumber yards including incidental millwork, farm implement dealers and repair.
5. The manufacturing, compounding, processing and packaging of perfumes, pharmaceuticals, toiletries, and condiments (except fish, meat, fowl, vegetables, vinegar, and yeast).
6. The manufacturing, compounding, assembling or treatment of articles or merchandise from the following previously prepared materials: bone, cellophane, fur, glass, hair, horn, leather, paper, plastics, precious or semi-precious metals or stones, zinc and aluminum pressure die casting, shell, textiles, tobacco, wood (excluding planing mill), yarns and paint not requiring a boiling process.
7. Distribution plants, parcel delivery service, ice and cold storage plants.
8. Assembly of electrical appliances, electronic instruments and devices, radios and phonographs, including the manufacture of small parts, such as condensers, transformers, crystal holders, transistor and computer boards, and the like.
9. Laboratories, experimental or testing.
10. Public utility service yard or electrical receiving transforming station.

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11. Coal yards.
12. Freighting or trucking terminals.
13. Freight yards.
14. Painting, upholstering, rebuilding, conditioning, body and fender work, repairing, tire recapping or retreading, and battery manufacture.
15. Industrial park, subject to the following conditions:
  - a. Permitted uses shall include all uses permitted by right within this district. Special uses identified in Section 10.01 D may be permitted, subject to the special use provisions of Article XVI.
  - b. The minimum required land area for an industrial park shall be twenty (20) contiguous acres.
  - c. The development of an industrial park shall be in accordance to an overall plan for development of the park, which plan shall be approved by the Township Planning Commission.
  - d. The developer shall provide within the industrial park a sanitary sewage system that shall be of sufficient size and design to collect all sewage from structures within the industrial park.
  - e. The developer shall provide within the industrial park a storm drainage system which shall be of sufficient size and design as will, in the opinion of the Township Engineer, collect, carry off and dispose of all predictable surface water runoff within and draining

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into the industrial park, and shall be so constructed as to conform with the statutes, ordinances and regulations of the State of Michigan, the Livingston County Drain Commissioner and the Township.

- f. If a public water system is not available, the developer shall provide within the industrial park a potable water system that shall be of sufficient size and design to supply potable water to each of the structures to be erected in the development.
  - i. The developer shall also provide a fire hydrant within four hundred (400) feet of each structure.
  - ii. Such water system shall conform to the statutes, ordinances, and regulations of the State of Michigan, the Livingston County Health Department, the Livingston County Drain Commissioner and the Township.
- g. All industrial parks shall have direct access to a paved street or major thoroughfare.
- h. Provision shall be made for safe and efficient ingress and egress to and from public streets and highways serving the industrial park without undue congestion or interference with normal traffic flow.
  - i. All points of vehicular access to and from public streets shall be located not less than seventy-five (75) feet from the intersection of any public street lines with each other.
  - ii. No part of any parking access and/or service area may be located closer than one hundred fifty (150) feet to any residential property line.

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- j. Parking, loading, or service areas used by motor vehicles shall be located entirely within the boundary lines of the industrial park.
- k. Any industrial park adjoining any residential development shall be provided with a buffer zone of at least sixty (60) feet that shall be provided adjacent to the property line. Such buffer shall be planted with evergreen and other suitable plantings and used for no other purposes as provided in Section 6.13. A landscaped planting area shall also be provided along all street frontages that shall not be less than sixty (60) feet in width.
- l. Lighting facilities shall be required where deemed necessary for the safety and convenience of employees and visitors. These facilities will be arranged in such a manner so as to protect abutting streets and adjacent properties from unreasonable glare or hazardous interference of any kind.
- m. Maximum building coverage on any lot within the industrial park shall not exceed forty (40) percent.
- n. Minimum lot sizes within an industrial park shall be one (1) acre.
- o. Minimum lot width within an industrial park shall be one hundred twenty (120) feet.
- p. Minimum yard setbacks within an industrial park shall be:
  - 1) **Front yard:** Forty (40) feet.
  - 2) **Side yard:** Thirty (30) feet.

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- 3) **Rear yard:** Forty (40) feet.

Minimum yard setbacks for lots, which abut property outside an industrial park, shall be as required for other uses in the district.

16. Landscape contractor's building, offices and yards as a use permitted by right.

### C. **Permitted Accessory Uses:**

1. Accessory uses clearly appurtenant to the main use of the lot and customary to and commonly associated with the main use, such as:
  - a. Incidental offices for management and materials control.
  - b. Restaurant or cafeteria facilities for employees working on the premises.

### D. **Uses Permitted By Special Use Permit:**

1. Asphalt and concrete batching facilities.
2. Billboards.
3. Communication towers.
4. Junkyards.

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5. Data processing facility.

E. **Site Development Requirements:** The following minimum and maximum standards shall apply to all uses and structures in the LI: Light Industrial District unless they are specifically modified by the provisions of Article VI: General Provisions or Article XVII: Standards for Specific Special Land Uses; or as varied pursuant to Article V: Zoning Board of Appeals.

1. **Minimum Lot Area:** No building or structure shall be established on any parcel less than four (4) acres except in an approved industrial park where minimum lot sizes shall be one (1) acre.
2. **Minimum Frontage:** Each parcel of land shall have continuous frontage of not less than three hundred thirty (330) feet, except in an approved industrial park where each lot shall have continuous frontage of not less than one hundred twenty (120) feet.
3. **Yard and Setback Requirements:**
  - a. **Front yard:** One hundred (100) feet.
  - b. **Side yard:** Eighty (80) feet, except in the case where a side yard abuts a residential zoning district, in which case the minimum required side yard shall be one hundred fifty (150) feet.
  - c. **Rear yard:** Eighty (80) feet, except in the case where a rear yard abuts a residential zoning district, in which case the minimum required rear yard shall be one hundred fifty (150) feet.

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- d. See Section 10.01 B 15 o for the minimum yard and setback requirements in a planned industrial park.
4. **Maximum Lot Coverage:** Forty (40) percent.
  5. **Maximum Height:** Unless otherwise provided in this Ordinance, no principal building shall exceed a height of forty (40) feet measured from the finished grade.
  6. **Performance Standards:**
    - a. External areas for storage shall be screened on all sides by an opaque fence of not less than five (5) feet in height.
    - b. When a side or rear lot line abuts or is adjacent to property located within a residential district, a berm or buffer zone shall be required in addition to the minimum yard requirements, specific driveways and plantings of which shall be determined through the site plan review process. (See Section 6.13.)
    - c. **Sound:** The intensity level of sounds shall not exceed the following decibel levels when adjacent to the following types of uses:

<b>Decibels</b>	<b>Adjacent Use</b>	<b>Where Measured</b>
55	Residential Dwellings	Common Lot Line
65	Commercial	Common Lot Line
70	Industrial and Other	Common Lot Line

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The sound levels shall be measured with a type of audio output meter approved by the Bureau of Standards. Objectionable noises due to intermittence, beat frequency, or shrillness shall be muffled so as not to become a nuisance to adjacent uses.

- d. **Vibration:** All machinery shall be so mounted and operated as to prevent transmission of ground vibration exceeding a displacement of .003 of one inch measured at any lot line of its source.
- e. **Odor:** The emission of noxious, odorous matter in such quantities as to be readily detectable at any point along lot lines, when diluted in the ratio of one volume of odorous air to four or more volumes of clean air so as to produce a public nuisance or hazard beyond lot lines, is prohibited.
- f. **Gases:** The escape of or emission of any gas, which is injurious, destructive, or explosive, shall be unlawful and may be summarily caused to be abated.
- g. **Glare and Heat:** Any operation producing intense glare or heat shall be performed within an enclosure so as to completely obscure and shield such operation from direct view from any point along the lot line except during the period of construction of the facilities to be used and occupied.
- h. **Light:** Exterior lighting shall be so installed that the source of light shall not be visible and shall be so arranged as far as practical to reflect light away from any residential use, and in no case shall more than one (1) foot-candle power of light cross a lot line five (5) feet above the ground in a residential district.
- i. **Electromagnetic Radiation:** Applicable rules and regulations of the Federal Communications Commission, in regard to propagation of electromagnetic radiation, shall be used as standards for this Ordinance.

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- j. **Smoke, Dust, Dirt and Fly Ash:** Any atmospheric discharge requiring a permit from the Michigan Department of Environmental Quality or federal government shall have said permit(s) as a condition of approval for any use in this District.
  
- k. **Drifted and Blown Material:** The drifting or airborne transmission beyond the lot line of dust, particles, or debris from any open stock pile shall be unlawful and may be summarily caused to be abated.
  
- l. **Radioactive Materials:** Radioactive materials shall not be emitted to exceed quantities established as safe by the U.S. Bureau of Standards, as amended from time to time.
  
- m. **Other Forms of Air Pollution:** It shall be unlawful to discharge into the atmosphere any substance not covered in parts C, D, and H and in excess of standards approved by the Michigan Department of Environmental Quality.
  
- n. **Liquid or Solid Wastes:** It shall be unlawful to discharge at any point any materials in such a way or of such nature or temperature as can contaminate any surface waters, land or aquifers, or otherwise cause the emission of dangerous or objectionable elements, except in accord with standards approved by the Michigan Department of Environmental Quality.
  - o. **Hazardous Wastes:** Hazardous wastes as defined by the Michigan Department of Environmental Quality shall be disposed of by methods approved by the Michigan Department of Environmental Quality.

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- i. All storage of materials on any land shall be within the confines of the building or part thereof occupied by said establishment.
  - ii. Material which normally and reasonably is discarded from industrial uses of property may be stored outside of an enclosed building for a reasonable time provided that such storage areas are completely screened by an opaque fence of not less than five (5) feet in height.
  - p. Any complaint alleging a violation of any of the following performance standards shall be accompanied by evidence which supports that allegation.
- 7. **Provisions of Article XIV:** Parking and Loading Requirements.
  - 8. **Provisions of Article XV:** Signs.
  - 9. **Provisions of Article XVIII:** Site Plan Review.
  - 10. **Provisions of Section 6.16:** Environmental Protection Standards.

**ARTICLE XI: PUBLIC LANDS DISTRICT**

**Section 11.01 PL: Public Lands District**

A. **Intent:** It is the intent of the Public Lands District (PL) to provide adequate land resources for the purposes of administering and performing necessary public services by the Township of Marion and other public offices. Lands within this district are intended solely for public buildings and uses and it is intended that no land will be placed within this district until such land falls under public ownership.

**B. Uses Permitted By Right:**

1. Public conservation areas, parks, game refuges, and similar uses.
2. Public schools.
3. Administrative offices and maintenance buildings of municipal corporations or the State of Michigan.
4. Municipal water supply and treatment facilities.
5. Municipal fire and police facilities.
6. Municipal sewage disposal and treatment facilities.
7. Municipally owned and maintained cemeteries and/or mausoleums.

**C. Permitted Accessory Uses:**

1. Accessory uses or structures typically associated with public facilities, including:
  - a. Automobile parking.
  - b. Storage buildings.
  - c. Public signs.

**D. Uses Permitted By Special Use Permit**

1. Public excavation operations.
2. Public communication towers on land owned by Marion Township.

**E. Site Development Requirements:** The following minimum and maximum standards shall apply to all uses and structures in the PL: Public Lands District unless they are specifically modified by the provisions of Article VI: General Provisions or Article XVII: Standards for Specific Special Land Uses; or as varied pursuant to Article V: Zoning Board of Appeals.

1. **Minimum Lot Area:** No building or structure shall be established on any parcel less than eleven thousand (11,000) square feet.
2. **Minimum Frontage:** Each parcel of land shall have frontage of not less than seventy-five (75) feet.
3. **Yard and Setback Requirements:**

- a. **Front yard:** One hundred (100) feet in the case of a parcel fronting on a major or minor thoroughfare; forty (40) feet otherwise.
  - b. **Side yard:** Fifteen (15) feet.
  - c. **Rear yard:** Twenty-five (25) feet.
4. **Maximum Lot Coverage:** Thirty-five (35) percent.
  5. **Maximum Height:** Unless otherwise provided in this Ordinance, no principal building shall exceed a height of thirty-five (35) feet measured from the finished grade.
  6. **Provisions of Article XIV:** Parking and Loading Requirements.
  7. **Provisions of Article XV:** Signs.
  8. **Provisions of Article XVIII:** Site Plan Review.

**ARTICLE XII: SOLAR FARM OVERLAY DISTRICT**

**Section 12.01 SFO: Solar Farm Overlay District**

- A. **Intent:** It is the intent of the Solar Farm overlay District (SFO) to provide for the location and siting of Utility Solar Energy Facilities to balance the promotion of economic development; to provide for a demonstrated need for energy production in general and solar energy production in particular; to supplement, rather than supplant, agricultural activities while also protecting the public health, safety, and welfare; to mitigate adverse impacts to agricultural lands, natural and environmentally-sensitive areas, and developed residential areas; and to preserve scenic views and cultural heritage. The Solar Farm Overlay District is intended to include areas in proximity to an electrical substation and electrical transmission lines to limit potential impact on other areas and uses within the township.

**B. Permitted Accessory Uses:**

1. Accessory uses or structures clearly incidental to the operation of an approved Utility-scale Solar Energy Facility.
2. Accessory uses or structures clearly incidental to the operation of an approved Utility-scale Wind Energy Conversion Facility.
3. Accessory uses or structures clearly incidental to the operation of an approved Utility-scale Battery Energy Storage Facility.

**C. Uses Permitted By Special Use Permit: (See specific provisions in Article XVII)**

1. Utility-scale Solar Energy Facilities.
2. Utility-scale Wind Energy Conversion Facilities.
3. Utility-scale Battery Energy Storage Facilities.

**ARTICLE XIII: PLANNED UNIT DEVELOPMENT OVERLAY DISTRICT**

**Section 13.01 PUD: Planned Unit Development Overlay District**

A. **Intent:** The planned unit development provisions of this Ordinance are intended to allow flexibility in the design of residential neighborhoods to encourage the conservation of natural features such as, but not limited to, woodlots, slopes, meadows, floodplains, and wetland areas and achieve economies of design related to vehicular and pedestrian circulation ways, utility construction, and dwelling unit siting. This Section provides for a mix of housing types provided that the overall project density does not exceed the density permitted by the underlying zoning district, based on the formula provided by this Section 13.03 B. Further, under certain circumstances and based on a comprehensive plan for the entire development, this Section allows for a mix of residential and compatible non-residential uses oriented toward the planned unit development residents but not exclusively for the residents of the planned unit development.

## Section 13.02

## Application of Planned Unit Development Provisions

- A. **Minimum Parcel Criteria:** The provisions of this Section may be applied to any parcel of land twenty (20) acres or greater, located in all residential districts, with the exception of the RR, Rural Residential District, which is under single ownership and for which an application for a planned unit development is made as provided herein. In addition to the required residential land area, property zoned for commercial use, which is under the same ownership as the aforementioned residentially zoned property, may be included as a part of the overall planned unit development proposal.
- B. **Exceptions to Minimum Parcel Criteria:** Notwithstanding the provisions of paragraph A., an application for a planned unit development on a parcel of land of less than twenty (20) acres may be submitted if the Planning Commission finds, based upon information provided by the landowner, that the minimum area requirement should be waived because a planned unit development is in the public interest and that one (1) or more of the following conditions exist:
1. The parcel of land, or the neighborhood in which it is located, has an unusual physical feature(s) that will be conserved by employing the provisions of this Article.
  2. The parcel of land has a historical character of importance to the Township that will be protected by employing the provisions of this Article; or
  3. The parcel of land is adjacent to, or across the road from, a parcel, which has been developed as a planned unit development and such will contribute to the maintenance of the amenities and values of the neighboring development.
- C. **Application Criteria:** An applicant for planned unit development must demonstrate at least three (3) of the following to qualify as a site for a PUD:
1. The parcel to be developed has frontage on a major or secondary

thoroughfare.

2. The parcel is shaped in such a way that it contains angles which would make a normal subdivision difficult to achieve and has frontage on a major or secondary thoroughfare.
3. A substantial part of the parcel's perimeter is bordered by a major thoroughfare which would result in a substantial proportion of the lots/units of the development abutting the major thoroughfare.
4. The parcel contains a wetland, floodplain or poor soil conditions which result in a substantial portion of the total area of the parcel being unbuildable. Soil test borings, floodplain maps, wetland maps, or other documented evidence must be submitted to the Planning Commission in order to substantiate the parcel's qualification for the PUD development under this subsection.
5. The parcel contains substantial natural assets which could be preserved through the use of a PUD/cluster development. Such assets may include natural stands of large trees, land which serves as a natural habitat for wildlife, unusual topographic features, or other natural assets which, in the opinion of the Planning Commission, should be preserved. Requests for qualifications under these conditions must be supported by documented evidence which indicates that the natural assets would qualify the parcel under the PUD Overlay District.
6. The parcel contains natural landforms which are so arranged that the change of elevation within the site includes slopes in excess of ten (10) percent between these elevations. These elevation changes and slopes shall appear as the typical features of the site rather than the exceptional or infrequent features of the site.
7. The topography is such that achieving road grades of less than five (5) percent would be impossible unless the site were mass graded. The PUD Overlay District will, in the opinion of the Planning Commission, allow greater preservation of the natural setting.
8. The proposed project incorporates sound land use policies and provides several unique design features and amenities such as, but not limited to:  
a) increased open space; b) active-use parks including tot lots; c) community buildings and structures; d) recreational facilities, i.e.,

swimming pools, tennis courts, ball fields, etc.; e) additional landscaping, signage treatment, etc.

- D. In areas meeting the above criteria, the minimum yard setbacks, heights, and minimum lot/unit sizes per unit required by Article VII and Article XIII, Section 13.03 B may be modified by the clustering and/or the attaching of the dwelling units as noted below (Section 13.02 D, 1–4). Further, if the development exists in an Urban Residential zoned area, then the square footage requirements may be modified contingent to the approval of the architectural floor plans, elevations, and a preliminary site plan by the Planning Commission.
1. The attaching of single-family dwelling units, one to another, when said homes are of one or more of the following:
    - a. Through a common party wall which does not have over fifty (50) percent of its area in common with an abutting dwelling wall.
    - b. By means of an architectural wall detail which does not form interior room space.
    - c. Through a common party wall only the garage portion of an abutting structure.
  2. The maximum number of units attached in the above-described manner shall not exceed four (4).
  3. Yard requirements shall be provided as follows (Note: The Planning Commission, at its discretion, may grant relief to these minimum requirements when the parcel size and shape interfere with the proposed development and when the topography or other natural features interfere with the project.):
    - a. Spacing between any grouping of four (4) or less one-family units and another grouping of such structures shall be equal to at least ten (10) feet, measured between the nearest points of the two groupings. A grouping may include a single, freestanding unit.

- b. Yards abutting a street may be reduced to thirty (30) feet measured from the back of curb to the front of the dwelling, and in the case of a corner lot/unit, from the back of the curb to the side of the dwelling.
  - c. All cluster groupings greater than two (2) attached units shall be so situated as to have one side of the building abutting onto a common open space.
  - d. Any side of a building with a cluster grouping greater than two (2) attached units adjacent to a private road shall not be nearer to said road than thirty (30) feet.
  - e. Any side of a building with a grouping greater than two (2) attached units adjacent to a public right-of-way shall not be nearer to said public right-of-way than thirty (30) feet.
  - f. This nature of development, when abutting a front yard of an existing recorded subdivision which is not part of the site plan submitted under this Section, shall cause all dwelling units facing such subdivision to relate through its front or entrance façade and treat said side of the grouping as a front yard.
  - g. No building shall be located closer than ninety (90) feet to the outer perimeter (property line) of the site.
4. The maximum height of buildings shall be thirty-five (35) feet.

**Section 13.03                      Planned Unit Development Design Standards**

A planned unit development proposal shall be consistent with the statement of purpose of this Article as well as the following general standards for the use of land, the type, bulk, design, and location of buildings, the density of use, common open space and public facility requirements, and the development of geographic divisions of the site.

- A. **Residential Dwellings:** The plan may provide for a variety of permanent housing types, including both detached and attached single-family dwellings (clustering), and multiple-family dwellings, but not mobile homes, as herein defined. Single-

family attached and cluster housing is encouraged as a means of conserving natural features and providing additional common open space.

**B. Permitted Residential Density Lot/Unit Frontage and Setbacks:** The permitted residential density lot/unit frontage and setbacks shall be determined based on the standards permitted by the underlying zoning district, as modified and indicated below:

Residential Zoning District	Minimum Lot Area	Minimum Lot Frontage	Minimum Required Setbacks		
			Front	Side	Rear
SR, Suburban Residential (without public sewer)***	32,670 sq. ft. (0.75 acre)	100 feet	35 ft.	15 ft.	25 ft.
SR, Suburban Residential (with public sewer)	20,000 sq. ft. (0.459 acre)	85 ft.	35 ft.	10 ft.	25 ft.
UR, Urban Residential (requires public sewer)	15,000 sq. ft.	70 ft.	30 ft.	10 ft.	25 ft.

**\*\*The minimum permitted lot/unit size for a detached single-family dwelling in areas not served by public sewer shall be determined by the Livingston County Health Department standards. However, in no case shall the density be less than 32,670 square feet (0.75 acres) for a lot/unit.**

The Planning Commission may modify the above UR, Urban Residential lot/unit coverage regulations, minimum lot/unit frontage, and setback requirements, when a proposed project presents and offers unique designs, features, and amenities for a Planned Unit Development as specified in Section 13.02 C 8 of this Article. Should the Planning Commission modify the above requirements, in no case shall density exceed that noted below, nor should the yard requirements exceed those indicated in Section 13.02 D 3.

**Density:** The maximum permitted residential density standards for a Planned Unit Development obtaining any Planning Commission modifications, shall be

determined based upon the following land areas per type and size of the dwelling:

*UNDERLYING ZONING DENSITY CHART*

Zoning	Type of Unit	Unit Area	Max. Density
UR	Single-Family Detached	10,370 sq. ft.	4.2 DU/AC.
UR	Single-Family Attached	8,700 sq. ft.	5.0 DU/AC.
UR	1 & 2 Bedroom Apt.	4,890 sq. ft.	8.9 DU/AC.
UR	3 Bedroom Apt.	8,220 sq. ft.	5.3 DU/AC.
UR	4 or more Bedroom Apt.	8,700 sq. ft.	5.0 DU/AC.

Densities of PUD developments shall be calculated on a gross parcel area minus the area occupied by proposed public and/or private road rights-of-way or existing dedicated public or private rights-of-way, minus areas designated as easements for public utilities, (except for Marion Township sewer and water easements), transmission lines/towers and pipeline easements, and minus one hundred (100) percent of the area occupied by any state regulated wetlands, and floodplain areas. The resulting land area shall be divided by the minimum lot size of the modified underlying zoning district as noted above to establish the maximum number of permitted dwelling units.

- C. **Common Open Space:** All planned unit developments shall maintain a minimum of thirty (30) percent of the parcel as common open space which is readily accessible and available to the residents of the planned unit development. Wetland, floodplain, and/or open water areas may fulfill a portion of the common open space requirement, provided that not more than twenty-five (25) percent of the designated common open space area is wetland area, floodplain area, and/or open water.

All open space that is proposed as part of the planned unit development shall be a part of the parcel that is being proposed for the planned unit development. Under no circumstances shall open space be considered as part of a planned unit development that is not contiguous to the development.

D. **Educational and Recreational Uses:** Both public and private nonresidential uses of an educational or recreational nature, including but not limited to golf courses, tennis clubs, swim clubs, riding stables, and necessary accessory uses and structures, designed as an integral part of the overall planned unit development, may occupy appropriate portions of the site. The area so occupied may be applied, at the discretion of the Planning Commission and Township Board, to satisfy a percentage of the total common open space requirement. Developed recreational uses such as tennis clubs, swim clubs, riding stables, and the like, may be used to satisfy twenty-five (25) percent of the common open space requirement. Golf courses may be used to satisfy up to sixty (60) percent of the common open space requirement, provided such use is integrated into the overall development.

E. **Commercial Uses:** Commercial uses, together with such other uses deemed consistent with the overall development plan, may occupy up to fifteen (15) percent of the gross area of a parcel greater than thirty (30) acres.

1. The following commercial uses may be permitted within a planned unit development:
  - a. Professional offices including but not limited to the offices of a lawyer, accountant, insurance agent, real estate broker, architect, engineer, doctor, dentist or similar occupation.
  - b. Banks, credit unions, savings and loan associations, and similar financial institutions.
  - c. Retail businesses, which supply commodities on the premises such as but not limited to groceries, meats, dairy products, baked goods, drugs, dry goods, clothing, notions, hardware, books, and similar establishments.
  - d. Personal service establishments which form services on the premises such as but not limited to repair shops (watches, electronics, shoes, etc.), tailor shops, beauty parlors, barber shops,

photographic studios, dry cleaners, and restaurants (restaurants shall not include fast food facilities or facilities with drive-up windows).

2. Adjacent property, which is zoned commercial and included, as part of the planned unit development proposal shall not be applied to this provision.
  3. Planned commercial uses shall be accessed by public roads or private roads developed to Livingston County Road Commission standards and sited in such a manner as to not encourage through traffic within the planned unit development or adjacent residential areas.
  4. Approval of commercial uses shall be dependent upon the market potential or demand for the uses in the area. The developer shall submit sufficient evidence to justify the need for commercial uses within the planned unit development.
- F. **Off-Street Parking and Loading:** Off-street parking and loading/unloading spaces shall be provided in accordance with Article XIV of this Ordinance.
- G. **Other Site Improvements:** Signage, lighting, landscaping, exterior building materials, and other features of the project shall be designed and constructed with the objective of creating an integrated and controlled development, consistent with the character of the community, the surrounding developments, and the site's natural features.
- H. **Perimeter Setback and Buffering:** The proposed location and arrangement of structures shall not be materially detrimental to existing or prospective adjacent structures or to existing or prospective development of the neighborhood. There shall be a ninety (90) foot perimeter setback from any building with a landscaped buffer area from all boundaries of the PUD and landscaping and/or berming, as recommended by the Planning Commission, for the purpose of buffering the adjacent properties from the planned unit development. The setback distance and buffering treatment may be modified by the Planning Commission provided

that the project incorporates sound land use policies and provides unique design features and amenities, but in no case may it be less than what the adjoining district requires.

However, in cases where nonresidential uses in the planned unit development are adjacent to residentially zoned property, a landscape berm, evergreen screen, or a decorative wall shall visually screen such uses.

- I. **Phasing:** Each residential development phase shall be designed to stand alone and provide a residential environment, which is compatible with the surrounding existing development. Deviations from the number of dwelling units per acre established for the entire planned unit development may be permitted within certain development phases as long as the number of dwelling units authorized per acre is not affected. Further, each development phase shall be designed to provide a proportional amount of common open space in each proposed phase.

A minimum of fifty (50) percent of the total number of residential dwelling units in any planned unit development must be constructed and be ready for sale prior to the construction of any commercial portion of the planned unit development, except that site grading, road construction, and utility installations related to the commercial portions of the planned unit development may be undertaken concurrent with the development of residential units and public or private recreation uses. However, based on supportive evidence provided by a professional market study, the Planning Commission may authorize the construction of commercial uses prior to the completion of fifty (50) percent of the total number of residential dwelling units.

- J. **Planned Unit Development Agreement:** The plan shall contain such proposed covenants, deed restrictions, easements, and other provisions relating to the bulk, location, and density of such residential units, nonresidential uses and public facilities, and provisions for the ownership and maintenance of the common open space as are necessary for the welfare of the planned unit development and are not inconsistent with the best interests of the Township. Said covenants, deed restrictions, easements, and other provisions, which are a part of the plan as finally approved, may be modified, removed, or released only in accordance with regulations and standards as may be subsequently set forth

by the Township Board. The enforcement of covenants, deed restrictions, and easements shall be carried out by an association formed by the residents of the planned unit development. Further, the bylaws of such association shall provide for the assessment of fees to finance enforcement actions undertaken by the association.

The landowner shall make such easements, covenants and other arrangements, and shall furnish such performance guarantees, as may be required, to assure performance in accordance with the plan and to protect the public interest in the event of abandonment of proposed development before completion.

**K. Land Division Requirements:** All portions of the planned unit development, including single-family lots, multiple-family dwellings, commercial areas, and public and private recreational uses, and common open space areas shall be platted in conformance with the requirements of the state of Michigan Subdivision Control Act PA 288 of 1967, as amended, and with the Marion Township Subdivision Control Ordinance; or prepared in conformance with the requirements of the state of Michigan Condominium Act PA 59 of 1978 and the condominium provisions of this Ordinance.

**L. Private Roads in a Planned Unit Development:**

1. Multiple-family Site Condominiums shall have direct access to the following Livingston County public paved roads or paved portions in the Urban Residential and Suburban Residential zoning districts;
  - a. Howell Pinckney Road, D19
  - b. Howell Mason Road
  - c. State Road M-155

Provisions shall be made for safe and efficient egress and ingress to public streets and highways serving any development, which shall be designed to minimize congestion and interference with normal traffic flow.

2. All developments for multiple-family PUDs shall have a secondary entrance for emergency vehicle access to the development if the primary entrance to the development is blocked. The secondary entrance shall be either a private road to a Livingston County public road or a gated emergency access private road constructed to Marion Township construction specifications and approved by the Howell Area Fire Marshall. This gated emergency access private road may access either a private road of another development or a Livingston County public road. It is the responsibility of the development's HOA per the Master Deed, Development Agreement and HOA

by-laws to maintain the gated emergency access private road and keep the access clear of snow, trees, and all other vegetation.

3. The Planning Commission may recommend modification of the requirements found in Section 6.20, provided the applicant can demonstrate that the project's proposed internal road system provides adequate public safety measures for the residents. For PUDs with only one (1) means of ingress, such private road ingress and egress shall be developed as a boulevard from the public road to the first internal private road intersection within the development. Said boulevard entrance shall contain one (1) ingress drive and one (1) egress drive, each containing a minimum twenty-four (24) feet wide pavement area measured from the front of the curb to front of curb with a landscaped island between said ingress and egress drives measuring not less than thirty (30) feet in width. Also, a private road shall meet the paved road construction specifications of the Marion Township ordinance, Section 6.20 Private Roads, for the actual roadway, including curb and gutter. The Planning Commission may modify the width of a private road easement to a minimum of sixty-six (66) feet providing the project met the application qualifying criteria found under Section 13.02 C 8 of the Ordinance.

- M. **Entry Sign:** The Planning Commission may modify the sign ordinance regulations if a more attractive alternative is demonstrated and further provided that the project meets the application qualifying criteria under Section 13.02 C 8 of this Ordinance.

## **Section 13.04 Procedure for Review and Approval**

### **A. Conceptual Planned Unit Development Submittal**

An applicant for planned unit development approval shall prepare a conceptual planned unit development submittal to provide the Planning Commission with a general overview of the proposed planned unit development. The applicant shall also submit a conventional development plan for the development project being considered in order for the Planning Commission to determine whether or not the planned unit development project meets the intent of this Article. The conceptual submittal shall be processed in accordance with the following procedures:

1. The applicant shall provide twenty (20) copies of the conceptual submittal to Zoning Administrator at least fourteen (14) days prior to the meeting at which the submittal is to be presented. The Zoning Administrator shall review the submittal to determine that all the required information has been provided. Upon finding that the submittal is complete, the Zoning

Administrator shall place the conceptual submittal on the Planning Commission's agenda.

2. The following minimum information must be provided as part of the concept submittal.

Statement of purpose, objectives, and development program including:

- a. Discussion of the rationale for employing the planned unit development provisions rather than developing the project conventionally.
- b. Total project area.
- c. Description of existing site characteristics.
- d. Description of proposed character of the development.
- e. Densities, areas and setbacks for various residential types.
- f. Area and percent of developed and undeveloped open spaces.
- g. Discussion of proposed means of serving the development with water, sanitary waste disposal, and storm water drainage.
- h. Proposed project phasing and estimated timing schedule by phase to completion.

- i. Statement of anticipated impact on natural features, public facilities and services such as but not limited to police and fire protection, roads, and schools.

Generalized development plan and program, including:

- j. Overall map at a minimum scale of 1-inch equals 2,000 feet showing the relationship of the proposed planned unit development to its surroundings, including section lines, parcel boundaries, major roads, collector streets, among other landmarks.

- k. Generalized graphic depiction at a scale of 1-inch equals 200 feet showing the following:

- 1) Major access roads serving the site, including right-of-way widths, and existing and proposed road surfacing.
- 2) Existing utility lines including sanitary sewer, storm sewer, water main, and gas and electric service.
- 3) Existing adjacent land uses and structures within 200 feet of the proposed planned unit development boundary.
- 4) Proposed internal pedestrian and vehicular circulation system.
- 5) Areas to be developed for residential, commercial, recreational, and common open space uses and structure locations.
- 6) Areas to be preserved in a natural state.

7) Other data or graphics, which will serve to further, describe the proposed planned unit development.

3. The Planning Commission shall review the concept plan with the applicant, shall inform the applicant of the Township's development policies, and shall make comments and suggestions about the proposed concept plan. The Planning Commission shall refer appropriate portions of the submittal to the Township Attorney, Engineer, Planner and/or appropriate county agencies for review and comment, prior to making comments and suggestions to the applicant.
4. The Planning Commission upon reviewing the conceptual planned unit development submittal as well as the comments from the Township Attorney, Engineer, Planner and appropriate state and county agencies and prior to granting conceptual PUD site plan approval, the Planning Commission sets a public hearing to receive citizen input on the proposed planned unit development. Notice of such public hearing shall be given in accordance with the following notification procedures:

***a. One (1) notice of the public hearing shall be published in a newspaper of general circulation in the Township. Notice of the Public Hearing also shall be sent by mail or personal delivery to the owners of the property for which planned unit development approval is being considered and to all persons to whom real property is assessed within three hundred (300) feet of the boundaries of the property in question, and to the occupants of all structures located within three hundred (300) feet of the boundaries of the property in question regardless of whether the property or occupant is located within the Township. If the name of the occupant is not known, the term "occupant" may be used in making notification.***

Notifications need not be given to more than one (1) occupant of a structure, except if a structure contains more than one (1) dwelling unit or spatial area owned or leased by different individuals, partnerships, businesses, or organizations, one occupant of each unit or spatial area shall receive notice.

***b. In the case of a single structure containing more than four (4) dwelling units or other distinct spatial areas owned or leased by different individuals, partnerships, businesses, or organizations, notice may be given to the manager or owner of the***

***structure who shall be requested to post the notice at the primary entrance to the structure.***

- c. Notice of the public hearing shall be made not less than fifteen (15) days prior to the public hearing date.
  
- d. The public hearing notice shall:
  - 1) Describe the nature of the planned unit development proposal.
  
  - 2) Adequately describe the property in question. The notice shall include a listing of all existing street addresses within the property, if such addresses exist. If there are no street addresses, other means of identification may be used.
  
  - 3) State the date, time, and place of the public hearing.
  
  - 4) Indicate when and where written comments concerning the request will be received.
  
- 5. After the public hearing, the Planning Commission shall submit a written report on the public hearing and the Commission's recommendation to the Township Board. Before recommending conceptual approval to the Township Board, the Planning Commission shall determine that the stated purpose of the Planned Unit Development ordinance and the specific conditions of Section 13.02 C exist and the requirements of Section 13.03 have been met.
  
- 6. The Township Board reviews the public hearing report and the Planning Commission recommendation and by resolution either approves, approves with modifications, or denies the conceptual planned unit development submittal.

7. Following approval of the conceptual planned unit development submittal, the Township Board authorizes the developer to prepare the preliminary planned unit development submittal.

**B. Preliminary Planned Unit Development Submittal**

A preliminary planned unit development submittal shall be processed in accordance with the following procedures:

1. The applicant shall provide twenty (20) copies of the preliminary planned unit development submittal to the Zoning Administrator at least fourteen (14) days prior to the meeting at which the submittal is to be presented. The Zoning Administrator shall review the submittal to determine that all the required information has been provided. Upon finding that the submittal is complete, the Zoning Administrator shall place the preliminary submittal on the Planning Commission's agenda.
2. The following minimum information must be provided by the preliminary planned unit development submittal.

**Existing Site Features**

- a. An overall area map at a scale of not less than 1-inch equals 2,000 feet showing the relationship of the planned unit development to its surroundings such as section lines and/or major roads or collector streets.
- b. Physical development plan prepared at a minimum scale of 1-inch equals 100 feet.

- c. Boundaries of proposed planned unit development, section or corporation lines within or adjacent to the tract, and overall property dimensions.
- d. Property lines of adjacent tracts of subdivided and unsubdivided land shown in relation to the proposed planned unit development site, including those of areas across abutting roads.
- e. Location, widths, and names of existing or prior platted streets and private streets, and public easements within or adjacent to the proposed planned unit development site, including those located across abutting roads.
- f. Location of existing sewers, water mains, storm drains and other underground facilities within or adjacent to the proposed planned unit development site.
- g. Topography drawn at a two (2) foot contour interval. Topography must be based on USGS datum and be extended a minimum distance of two hundred (200) feet outside the proposed planned unit development boundaries.

### **Proposed Development Features**

- h. Layout of internal roads indicating proposed road names, right-of-way widths, and connections to adjoining platted roads, and also the widths and location of alleys, easements, and pedestrian ways.
- i. Layout, numbers, and dimensions of single-family lots/units, including building setback lines.

- j. Layout of proposed multiple-family dwellings, including setbacks, buildings, drives, parking spaces, pedestrian ways, and landscaping.
- k. Location and function of both developed and undeveloped open spaces, as well as the layout of facilities to be included on developed open spaces.
- l. Depiction of major wooded areas and description of means to be employed to preserve them.
- m. An indication of ownership, and existing and proposed use of any parcels identified as "excepted."
- n. An indication of the proposed sewage, water supply, and storm drainage system. If county drains are involved, the proposed drainage shall be acceptable to the Livingston County Drain Commissioner.
- o. Conceptual site grading and conceptual landscaping plans.
- p. Depiction of proposed development phases.
- q. Architectural renderings of typical structures and landscape improvements, in detail sufficient to depict the basic architectural intent of the improvements.

**Tabulations**

- r. Total site acreage and percent of total project in various uses, including developed and undeveloped open space.

- s. Total site density of single-family and multiple-family dwellings and percent of ground area covered by structures other than detached single-family dwelling units.
  - t. Acreage and number of single-family lots, multiple-family dwellings (including number of bedrooms) to be included in development phases.
3. Planning Commission accepts the submittal and refers the appropriate portions to the Township Attorney, Engineer, Planner, and appropriate county agencies for review and recommendation.
4. The Planning Commission reviews the preliminary planned unit development submittal as well as the comments from the Township Attorney, Engineer, Planner, and appropriate state and county agencies. After its review, the Planning Commission shall determine that the stated purpose of the Planned Unit Development Ordinance and the specific conditions of Section 13.02 C exists and the requirements of Section 13.03 and 13.04 A have been met and shall submit a written report with their recommendation to approve, deny, or approve with modifications to the Township Board.
5. The Township Board, upon receiving a recommendation from the Planning Commission and upon reviewing the planned unit development submittal shall by resolution approve, approve with conditions, or deny the planned unit development submittal.
6. A final planned unit development submittal for some portion of the planned unit development must be submitted within twenty-four (24) months following approval of the preliminary planned unit development. If no final planned unit development submittal is accepted within that period, approval of the preliminary planned unit development is automatically rescinded and the underlying zoning will take effect. However, the Township Board, upon written application by the developer, may extend the designation for successive two (2) year periods; except that no more than two such twenty-four (24) month extensions may be granted.

**C. Final Planned Unit Development Submittal**

The final planned unit development submittal for all or a portion of the total planned unit development is reviewed by the Planning Commission and acted

upon by the Township Board to assure substantial compliance with the preliminary planned unit development submittal.

1. The final planned unit development submittal must be prepared as one of the following:

a. Subdivision Plat as Defined by the Subdivision Control Act

The final planned unit development submittal must be prepared in the form of a preliminary plat in detail sufficient to be granted tentative preliminary plat approval in conformance with the state of Michigan Subdivision Control Act, the Marion Township Subdivision Ordinance, and the conditions established in the preliminary planned unit development submittal and planned unit development agreement.

Construction of the initial phase of the planned unit development shall be completed within two (2) years following final preliminary plat or condominium plan approval by the Township Board. This limit may be extended for a reasonable period to be determined by the Township Board, upon written application by the developer for cause shown. If, however, this time limit is not met and an extension is not granted, the planned unit development agreement is automatically rescinded.

b. Condominium Plan as Defined by the Condominium Act

The final planned unit development submittal must be prepared in the form of a condominium plan pursuant to the requirements of the Condominium Act in detail sufficient to be granted approval in conformance with the condominium provisions of this Ordinance and the conditions established in the preliminary planned unit development submittal and planned unit development agreement.

2. The developer prepares a planned unit development agreement which is reviewed by the Township Attorney, Planner, and Engineer. The planned unit development agreement shall contain the following:
  - a. Legal description of the total site.
  - b. Statement of developer's interest in the land proposed for development.
  - c. Statement regarding the manner in which open space is to be maintained.
  - d. Statement regarding the developer's intentions regarding sale and/or lease of all or portions of the planned unit development, including land areas, units, and recreational facilities.
  - e. Statement of covenants, grants of easements (including easements for public utilities), and other restrictions to be imposed upon the uses of the land and structures.
  - f. Statement of required modifications (variances) to the regulations which are otherwise applicable to the site.
  - g. *Schedule indicating the time within which applications for final approval of each phase of the planned unit development are intended to be filed.***
3. The following minimum information must be provided by the developer at the time of filing of a final planned unit development submittal for all or a portion (phase) of a planned unit development:
  - a. Detailed grading plan.

b. Detailed landscaping plan.

c. Detailed utilities layout.

### **Tabulations showing**

d. Total phase acreage and percent of total planned unit development.

e. Acreage and percent of portion of phase and total planned unit development occupied by single-family, multiple-family, and developed and undeveloped open space.

f. Total phase density and percent of total planned unit development.

g. Number of bedrooms per multiple-family dwelling unit by type (i.e., efficiency, one bedroom).

h. Percent of ground area covered by structures other than detached single-family dwelling units.

### **Supporting materials**

i. Legal description of the total phase, each use area, and dedicated open space.

j. Copies of covenants, easements, and other restrictions to be imposed.

- k. Proposed dates of construction start and completion of phase.
4. The final planned unit development submittal shall not:
- a. Vary the proposed gross residential density or intensity of use in any portion of the planned unit development by more than ten (10) percent; or
  - b. Involve a reduction of the area set aside for common space; or
  - c. ***Increase by more than ten (10) percent the floor area proposed for nonresidential use; or***
  - d. Increase by more than five (5) percent the total ground area covered by buildings.
5. The final planned unit development submittal shall be processed in accordance with the following procedures:
- a. ***The applicant shall provide twenty (20) copies of the final planned unit development submittal to the Zoning Administrator at least fourteen (14) days before the meeting at which the submittal will be presented. The Zoning Administrator shall review the submittal to determine that all the required information has been provided. Upon finding that the submittal is complete, the Zoning Administrator shall place the final submittal on the Planning Commission's agenda.***
  - b. The Planning Commission accepts plan and refers the appropriate portions of the submittal to the Township Attorney, Engineer, Planner as well as the appropriate state and county agencies for review and recommendation.
  - c. The Planning Commission reviews the final planned unit development submittal to assure conformance with the approved preliminary planned unit development submittal and planned unit

development agreement. Within thirty (30) days following receipt of the final planned unit development submittal, the Planning Commission shall approve or require modifications to assure conformance, if the final planned unit development submittal deviates from the preliminary planned unit development submittal by more than the limits prescribed in this Ordinance.

6. Before either the Planning Commission recommends final approval or the Township Board grants final approval to any planned unit development, the Planning Commission and Township Board shall, respectively, determine that:
  - a. Provisions, satisfactory to the Township Board, have been made to provide for the financing of any improvements shown on the plan for open spaces and common areas which are to be provided by the applicant, and that maintenance of such improvements is assured by a means satisfactory to the Township Board.
  - b. The cost of installing all streets and necessary utilities has been assured by a means satisfactory to the Township Board.
  - c. The final plan for any phase is in conformity with the overall comprehensive plan of the entire neighborhood acreage. Any changes or amendments requested shall terminate the overall planned unit development approval until such changes and/or amendments have been reviewed and approved as in the instance of the preliminary submittal.
  - d. Proceeding with a planned unit development should only be permitted if it is mutually agreeable to the Township Board and the developer.

The Township Board shall prepare a report stating its conclusions, its decision, the basis for its decision, and any conditions imposed on an affirmative decision.

7. Following approval of a final planned unit development submittal by the Township Board, the developer begins processing the plat through the Township Board in conformance with the Subdivision Control Act and the Marion Township Subdivision Ordinance or the condominium plan through the Planning Commission and Township Board in conformance with the Condominium Act and condominium provisions of this Ordinance.

**Section 13.05                      Appeals**

No decision or condition related to a planned unit development submittal shall be taken to the Board of Appeals.

**Section 13.06                      Fees**

Fees for the review of a conceptual, preliminary or final planned unit development submittal shall be in accordance with the schedule of fees adopted by resolution of the Township Board. Before final approval is granted, the cost of review fees shall be paid for by the applicant/developer.

**ARTICLE XIV:                      OFF-STREET PARKING AND LOADING**

**Section 14.01                      Intent of Parking Provisions**

It is the intent of this Ordinance that parking spaces shall be provided and adequately maintained by each property owner in every zoning district for the off-street storage of motor vehicles for the use of occupants, employees and patrons of each building and premise constructed, altered or enlarged under the provisions of this Ordinance. All commercial vehicles shall be stored on the lot occupied by the principal building.

- A. **Fractional Space:** When units of measurement determining the number of required parking spaces result in a fractional space, any fraction to and including one-half ( $\frac{1}{2}$ ) shall be disregarded and fractions over one-half ( $\frac{1}{2}$ ) shall require one (1) parking space.
- B. **Requirements for a Use Not Mentioned:** In the case of a use not specifically mentioned, the requirements of off-street parking for a use which is mentioned and which is most similar to the use not listed shall apply. The Planning Commission shall make this determination and a record of the rationale applied documented in a file established for that purpose. An appeal may be taken to the Zoning Board of Appeals.
- C. **Use of Parking Areas:** No commercial repair work, servicing or selling of any kind shall be conducted in any parking area or parking garage. Parking spaces shall be used only for the parking of vehicles used to service the establishment to which it is accessory and by its patrons.
1. No sign shall be erected in parking areas other than not more than one (1) directional sign at each point of ingress or egress, which sign may also bear the name of the enterprise, the lot is intended to serve and signs identifying reserved parking spaces. Such signs shall not exceed twenty (20) square feet in area and shall not project beyond the property line of the premises.
- D. **Building Additions or Other Increases in Floor Area:** Whenever a use requiring off-street parking is increased in floor area, or when interior building modifications result in an increase in capacity for any premise use, additional parking shall be provided and maintained in the proper ratio to the increased floor area or capacity.
- E. **Joint Use of Parking Areas:** The joint use of parking facilities by two or more uses may be granted by the Planning Commission whenever such use is practical and satisfactory to each of the uses intended to be served, and when all requirements for location, design, and construction are met.

1. **Computing Capacities:** In computing capacities of any joint use, the total space requirement is the sum of the individual requirements that will occur at the same time. If space requirements for individual uses occur at distinctly different times, the total of such off-street parking facilities required for joint or collective use may be reduced below the sum total of the individual space requirements.
  
2. **Record of Agreement:** A copy of an agreement between joint users shall be filed with the application for a land use permit, the building permit, and recorded with the Register of Deeds of the County. The agreement shall include a guarantee for continued use of the parking facility by each party.

**Section 14.02      Parking Space Requirements**

The number of required off-street parking spaces in the RR, SR, UR, ERS, HS, LI, PL and PUD districts shall be provided with the following:

Type of Use	Required Number of Spaces
A. Single and Two-Family Dwellings	Two (2) spaces for each dwelling unit.
B. Multiple-Family Dwellings	Two (2) spaces for each multiple-family dwelling unit, plus one space per five (5) units for guest parking.
C. Adult Foster Care Facilities	One (1) space per employee on the largest work shift, plus the spaces required for the dwelling unit.
D. Auditoriums (incidental to schools), Churches, Stadiums, Gyms, Theaters, and Buildings of Similar Use with Fixed Seats	One (1) space for each four (4) seats, plus one (1) space for each two (2) employees.

<b>Type of Use</b>	<b>Required Number of Spaces</b>
E. Automobile Service and Repair Stations	Two (2) spaces for each repair and service stall (a service stall is not considered a parking space), plus one space for each two (2) employees.
F. Barber Shops and Beauty Parlors	Two (2) spaces for each beauty and/or barber chair.
G. Boarding and Lodging Houses	One (1) space for each bedroom or each two (2) occupants of the structure, whichever is greater, plus one (1) additional space for the owner or operator.
H. Bowling Alleys	Two (2) spaces for each alley, plus one (1) space for each employee on the largest shift.
I. Clinics	Two (2) spaces for each examination or treatment room, plus one (1) space for each doctor or dentist and other employees.
J. Commercial and Institutional Recreational Facilities	One space per three (3) patrons to the maximum capacity of the facility.
K. Convalescent Homes or Similar Uses	One (1) space for each six (6) beds, plus one (1) space for each employee on the largest working shift.
L. Dance Halls, Pool and Billiard Rooms	One (1) space for each three (3) persons allowed within maximum capacity load.
M. Day care facilities	One (1) space for each employee, plus a paved, unobstructed stacking space for pick-up and drop-off, plus one (1) space per eight (8) children of licensed capacity.

Type of Use	Required Number of Spaces
N. Drive-In Banks, Cleaners, Car Laundries, and Similar Businesses	Stacking space for five (5) cars between the sidewalk area and the drive-up window and one (1) space for each employee on the largest shift.
O. Drive-in Restaurants or Fast-Food Restaurants	One (1) space for each four (4) seats, plus one (1) space for each employee on the largest shift; plus sufficient area for eight (8) stacking spaces for drive-in windows.
P. Elementary and Middle Schools	One (1) space for each two (2) employees, plus one (1) space for each four (4) seats where the school contains an auditorium and/or stadium or gym.
Q. Funeral Homes and Mortuaries	One (1) space for each twenty-five (25) square feet of gross floor area of chapels and assembly rooms.
R. Golf Clubs, Swimming Pool Clubs, Tennis Clubs or Other similar Uses	Four (4) spaces for each green, plus one (1) space for every two (2) employees on the largest shift, plus fifty (50) percent of the spaces otherwise required for any accessory uses (e.g. restaurant, pro shop, etc.).
S. High Schools and Colleges	One (1) space for each employee, plus one (1) space for each five (5) students (based on the capacity of the facility as determined by the fire marshal), plus one (1) space for every four (4) seats where the school contains an auditorium and/or stadium or gym.
T. Hospitals, Sanitariums	One (1) space for each three (3) patient beds, plus one (1) space for each two (2) employees on the largest shift, plus one (1) space for each visiting doctor.

<b>Type of Use</b>	<b>Required Number of Spaces</b>
U. Industrial or Manufacturing Establishments	One (1) space for each employee in largest working shift.
V. Junk Yards	One (1) space for each two (2) employees.
W. Excavation Operations and Asphalt Batching Plants	One (1) space for each employee on the largest shift.
X. Laundromat	One (1) space for each three (3) washing or drying machines.
Y. Libraries, Museums, Post Offices	One (1) space for each eight hundred (800) square feet of floor area, plus one (1) space for every two (2) employees on the largest shift.
Z. Miniature or Par-3 Golf Courses	Three (3) spaces for each hole, plus one (1) space for each employee.
AA. Motels, Hotels, Bed and Breakfasts	One (1) space for each sleeping unit, plus two (2) spaces for each employee on the largest shift.
BB. Private Recreational Facilities	One (1) space for each six (6) potential members based on the capacity of the facility.
CC. Professional Offices and Banks	One (1) space for each three hundred (300) square feet of gross floor area.
DD. Standard Restaurants, Cafeterias, Taverns, Bars	One (1) space for each three (3) seats up to the capacity of the facility as determined by the fire marshal.
EE. Retail Stores, including furniture, appliance, automobile sales, machinery sales, and	One (1) space for each three hundred (300) square feet of gross floor area.

Type of Use	Required Number of Spaces
personal services (other than beauty and barber shops), except as otherwise specified herein.	
FF. Supermarket, Self-Service Food Store	One (1) space for each one hundred (100) square feet of gross floor area.
GG. Warehouses, Wholesale Stores	One (1) space for each eight hundred (800) square feet of floor area.

**Section 14.03      Location of Parking Areas**

All commercial off-street parking areas shall be located on the same lot, or on the adjacent premises, in the same district as the use they are intended to serve.

**Section 14.04      Site Development Requirements**

All off-street parking areas shall be designed, constructed and maintained in accordance with the following standards and requirements.

- A.    **Marking and Designation:** Parking areas shall be so designed and marked as to provide for orderly and safe movement and storage of vehicles.
  
- B.    **Driveways:** Adequate ingress and egress to the parking area by means of clearly limited and defined drives shall be provided.
  - 1.    Except for parking spaces provided for single-family and two-family residential lots, drives for ingress and egress to the parking area shall be not less than thirty (30) feet wide and so located as to secure the most appropriate development of the individual property.

2. Each entrance to and exit from a commercial off-street parking area shall be at least twenty-five (25) feet from any adjacent lot within a residential district.

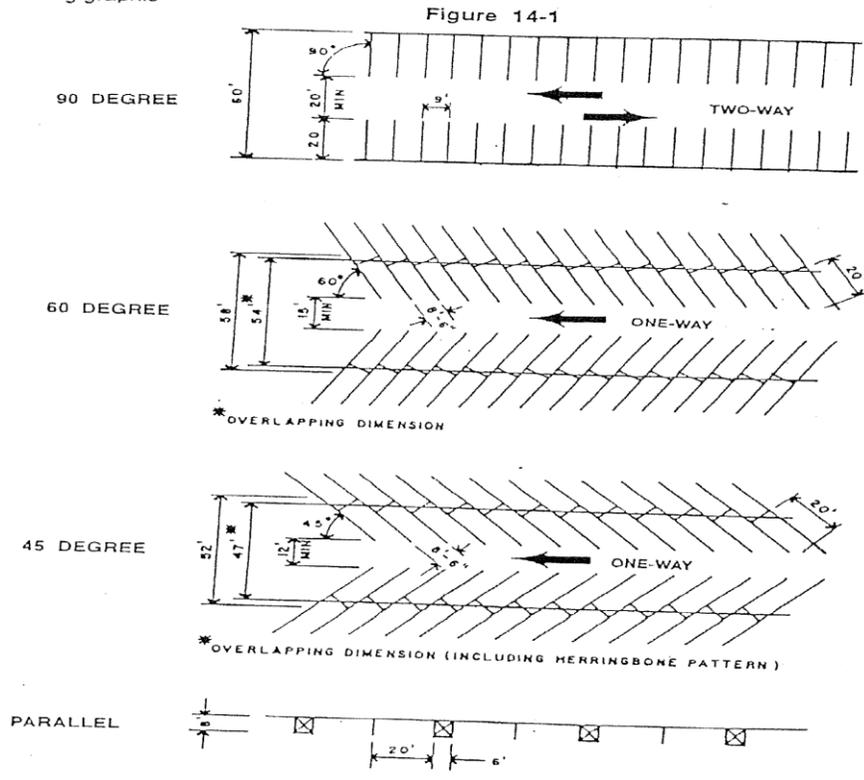
C. **Site Maneuverability:** Each parking space, within a commercial off-street parking area, shall be provided with adequate access by means of maneuvering lanes. Backing directly onto a street shall be prohibited. The width of required maneuvering lanes may vary depending upon the proposed parking pattern, as follows. (See Figure 14-1.)

Parking Pattern	Maneuvering Lane Width	Parking Space Width	Parking Space Length
0 degrees (parallel parking)	12 feet	8 feet	<b>23 feet</b>
30 to 53 degrees	12 feet	10 feet	<b>20 feet</b>
54 to 75 degrees	15 feet	10 feet	<b>20 feet</b>
75 to 90 degrees	20 feet	10 feet	20 feet

All maneuvering lane widths shall permit one-way traffic movement, except for the 90 degree pattern, which may provide for two-way traffic movement.

**Figure 14-1 Parking Graphic**

Figure 14-1 Parking graphic



PARKING LAYOUTS

D. **Surface:** Commercial parking areas with a capacity of four (4) or more vehicles shall be surfaced with a material that shall provide a durable, smooth, and dustless surface and shall be graded and provided with adequate drainage.

E. **Lighting:** Except for single-family and two-family residential lots, adequate lighting shall be provided throughout the hours when the parking area is in operation.

1. Lighting shall be designed and constructed in such a manner to ensure that:

a. direct or directly reflected light is confined to the development site.

b. all light sources and light lenses are shielded and are not directly visible beyond the boundary of the site.

2. Unless otherwise approved by the Planning Commission, light sources shall be high-pressure sodium. Approved exceptions shall use warm white or natural lamp colors.

3. Specifications for lights, poles, fixtures, light sources, and lenses shall be reviewed and approved by the Planning Commission.

F. **Buffering:** Where a parking area with a capacity of four (4) or more vehicles adjoins a residential district, a landscaped buffer zone shall be provided between the parking area and the adjoining property pursuant to the requirements of 6.13.C.

## Section 14.05 Loading and Unloading Space Requirements

- A. **Intent:** In order to prevent undue interference with public use of streets and alleys, every manufacturing, storage, warehouse, department store, wholesale store, retail store, hotel, hospital, laundry, dairy, mortuary, and other uses similarly and customarily receiving or distributing goods by motor vehicle shall provide space on the premises for that number of vehicles that will be at the premises at the same time on an average day of full use.
  
- B. **Additional Parking Space:** Loading space required under this Section shall be provided as area additional to off-street parking space as required under Section 14.02 and shall not be considered as supplying off-street parking space.
  
- C. **Space Requirements:** There shall be provided adequate space for standing, loading, and unloading service not less than twelve (12) feet in width, twenty-five (25) feet in length, and fourteen (14) feet in height, open or enclosed, for uses listed in the following table, or for similar uses similarly involving the receipt or distribution by vehicles of material or merchandise.

Use	Space Required
Commercial uses, such as Retail Stores, Personal Services, Amusement, Automotive Service	First 2,000 square feet; none. Next 20,000 or fraction thereof; one (1) space. Each additional 20,000 or fraction thereof; one (1) space.
Hotels, Offices, Clinics	First 2,000 square feet; none. Next 50,000 or fraction thereof; one (1) space. Each additional 100,000 or fraction thereof; one (1) space.
	First 20,000 square feet; one (1) space.

Use	Space Required
Wholesale and Storage Contractor's Yards	Each additional 20,000 or fraction thereof; one (1) space.
Manufacturing uses	First 20,000 square feet or fraction thereof; one (1) space. Each additional 20,000 or fraction thereof; one (1) space.
Funeral Homes and Mortuaries	First 5,000 square feet or fraction thereof; one (1) space. Each additional 10,000 or fraction thereof; one (1) space.
Hospitals	First 20,000 square feet; one (1) space. Next 100,000 or fraction thereof; one (1) space. Each additional 200,000 or fraction thereof; one (1) space.
Schools, Churches, Clubs, Public Assembly Buildings, Auditoriums, Boarding Houses, Convalescent Homes	For each building, one (1) space.
For similar uses not listed	For each building 5,000 square feet or over; one (1) space.

D. **Access:** Access to a truck standing, loading, and unloading space shall be provided directly from a public street or alley and such space shall be so arranged to provide sufficient off-street maneuvering space as well as adequate ingress and egress to and from a street or alley.

E. **Screening:** All loading and unloading areas and outside storage areas, including areas for the storage of trash which face or are visible from residential properties or public thoroughfares, shall be screened by a vertical screen consisting of

structural or plant materials no less than five (5) feet in height. Where these standards are inadequate, the requirements of Section 6.13.B. shall apply.

## **ARTICLE XV: SIGNAGE**

### **Section 15.01 Purpose**

The purposes of this Article shall be to preserve the residential character and rural atmosphere of the community; to prevent the marring of the appearance of Marion Township by an excessive number of signs; to provide for the safety of drivers and pedestrians by controlling distractions and impairments to visibility; to render the area attractive to travelers; to protect residents from annoyances; and to protect the public health, safety, welfare, and property values by: establishing standards for the design, size and location of signs; establishing permit review and approval procedures for signs; and providing for the removal of any unauthorized signs. All signs within Marion Township shall conform to the provisions of this Article.

### **Section 15.02 Definitions**

The following terms, phrases, words and their derivatives shall have the meaning given in Article III of this Ordinance, unless the context otherwise requires.

### **Section 15.03 Signs Prohibited in All Districts**

Unless otherwise permitted by this Ordinance, by variance or by legal nonconforming status as provided in this Ordinance, the following signs shall not be permitted:

- A. Signs which imitate, or may be confused with or construed as, an official traffic sign, signal or device, or which contain the words "stop," "go," "yield," "slow," "caution," "danger," "warning," or similar words.
- B. Signs which are located or placed on any property or building or illuminated in a manner that interferes with motorists' proper visibility of pedestrians, traffic or traffic signs, signals or devices.
- C. Signs that are located in, project into, or overhang any public right-of-way or dedicated public easement, except as allowed by Marion Township, Livingston County, State or Federal government.
- D. All portable or non-structural signs. A sign shall be considered non-structural if it has no permanently mounted, self-supporting structure or is not an integral part of a building to which it is accessory.
- E. Any sign which has any visible moving parts, visible revolving parts, visible mechanical movement of any description, or other apparent visible movement achieved by LED electrical, electronic, or mechanical or human means, including intermittent electrical pulsations, or by action of normal wind current, except for flags and time, temperature signs as provided in this Ordinance.
- F. Exterior banners, pennants, strings of flags, spinners and streamers except if approved with a temporary use permit.

- G. String of lights used for commercial purposes, other than seasonal or holiday decorations.
- H. Flashing signs with moving or blinking lights, or signs with exposed incandescent light bulbs.
- I. A rotating search light or similar device which emits a beam of light.
- J. Roof signs or any sign which is attached to a roof and projects more than one foot above the roof line.
- K. Pylon or pole-mounted signs. In instances where the applicant demonstrates to the satisfaction of the Planning Commission, as applicable, that visibility would be seriously impacted by a ground or monument sign, a pylon sign may be permitted. Visibility is related only to ingress/egress of pedestrians and vehicles - not visibility of buildings or advertisements.
- L. Any sign displayed on an automobile, truck, or other motorized vehicle, parked in view of a public road right-of-way or private road easement.
- M. Street furniture signs with the exception of signage on table umbrellas used for outdoor cafe-style dining.
- N. Signs which are attached to utility poles, trees, fences, rocks or to walls or other signs. This shall not include "no trespassing & no hunting" signs, which shall be regulated as "incidental signs" pursuant to section 15.4 H.
- O. Signs on public or private towers. Any type of signage including logos shall not be permitted on a public or private radio, television, cellular phone, or water towers.
- P. Off-premises signs, except way-finding and off-site real estate signs.
- Q. Obsolete signs which advertise an activity, business product, or service no longer produced or conducted on the premises upon which the sign is located. Where the owner or lessor of the premises is seeking a new tenant, such signs may remain in place for not more than ninety (90) days from the date of vacancy.
- R. Signs erected on either public or private property without the consent of the owner or occupant thereof.
- S. Any sign unlawfully installed, erected, or maintained.
- T. Signs advertising activities which are illegal.

#### **Section 15.04 Signs Allowed without a Permit**

The following signs are allowed to be erected or maintained without a permit, provided they comply with the following regulations and all applicable ordinances, laws, and regulations.

- A. Address Signs: A sign having an area of not more than two (2) square feet, to convey only the street address.

- B. Business Affiliation Signs: Signs not exceeding a total of two (2) square feet per business indicating acceptance of credit cards or describing business affiliations and are attached to a permitted sign, exterior wall, building entrance or window.
- C. Directional Signs: Signs located immediately adjacent to each exit, entrance or change in direction of vehicular or pedestrian travel that are installed to provide for the safe flow of persons and/or vehicles.
- D. Flags: Insignia of any nation, state, government, community organization, corporation, college or university, respectfully displayed, provided that no more than five (5) flags representing the same entity exist on a property, and further that no flag be located in or fly over a public right-of-way.
- E. Garage Sale Signs: Signs for garage sales, yard sales, basement sales, rummage sales, moving sales, estate sales or other similar sales, when conducted at a residence: may be erected on private property only; are limited to two (2) signs per sale location; may not exceed six (6) square feet or four (4) feet in height per sign; may not be erected for more than six (6) days in any calendar year per sale location; and may not be placed in a public right-of-way.
- F. Gas Station Pump Island Signs: Signs located immediately adjacent to gas pumps which provide identification to "self-serve" and "full-serve" operations, provided that there are no more than two (2) such signs per Pump Island and that such signs do not exceed four (4) square feet in area.
- G. Historical Marker: Plaques or signs describing state or national designation as an historic site or structure and/or containing narrative, not exceeding twelve (12) square feet in area.
- H. Incidental Signs: Signs bearing non-commercial messages that have a purpose secondary to the use of the lot on which they are located, such as those designating the location of public telephones, restrooms, restrictions on smoking and restrictions on building entrances, provided that no such signs exceed two (2) square feet in area.
- I. Integral Signs: Signs that display the name of the building, date of erection, or take the form of a monumental citation or commemorative tablet, when carved into stone, concrete or similar material or made of bronze, aluminum or other non-combustible material and made an integral part of the structure and not exceeding six (6) square feet in area.
- J. Open House Signs: Portable real estate "open house" signs with an area not greater than six (6) square feet and a maximum height of five (5) feet, provided only one such sign may be located on the premises being sold. Such signs may not be erected for more than eight (8) consecutive days and may not occupy a public right-of-way.
- K. Owner/Tenant Signs: Address or occupant name and other signs of up to two (2) square feet in area mounted on the wall of a commercial building.

- L. Parking Lot Signs: Signs indicating restrictions on parking, when placed within a permitted parking lot, which do not exceed six (6) feet in height and four (4) square feet in area.
- M. Public Signs: Signs posted by duly constituted public authorities in the performance of their public duties.
- N. Public Notice Signs: Temporary signs announcing any public, charitable, educational, religious event or function. Temporary off premises signs may be permitted in connection with a Temporary Use Permit. Such signs must be removed within seven (7) days after the event or function. Such signs may be illuminated in accordance with the restrictions set forth in Section 15.9 hereof.
- O. Real Estate Signs: Portable real estate signs of six (6) square feet or less and a maximum height of four (4) feet, limited to one (1) per road frontage, and advertising the sale, lease or rental of the premises on which erected. Such signs may not occupy a public right-of-way.
- P. Real Estate Signs, Off-Site: Portable real estate signs of six (6) square feet or less and a maximum height of four (4) feet and advertising the sale, lease or rental of a property or building other than the premises on which it is erected. No more than four (4) such signs advertising the same property or building shall be located within the Township. Such signs may not occupy a public right-of-way.
- Q. Regulatory, Directional and Street Signs: Erected by a public agency in compliance with Michigan Manual of Uniform Traffic Control Devices Manual. Tourist Oriented Directional Signs, or "TODS," shall be included under this provision. Regulatory, directional and street signs may be located within the road right-of-way.
- R. Rental Office Directional Signs: Up to two (2) signs identifying or directing motorists to a rental or management office in a multiple family development, provided that such signs are a maximum of four (4) feet in height, are setback a minimum of fifteen (15) feet from any property line or public right-of-way, and do not exceed three (3) square feet in area.
- S. Political Signs: Signs for the purposes of general expression and temporary political signs advocating or opposing candidates for public office or a position on an issue to be decided at an election. Temporary political signs shall be removed within 10 days after the election.
- T. Vehicle Signage: Signs located on motor vehicles or trailers bearing current license plates which are traveling or lawfully parked upon public highways, or parked upon any premises where the sign is not readily and obviously visible from the street.
- U. Warning Signs: Signs such as no trespassing, no hunting or warning of electrical currents or animals, provided that such signs do not exceed four (4) square feet.
- V. Way-Finding Signs: Temporary, off-premise way-finding signs may be permitted that direct travelers to a public or quasi-public seasonal or special event. Temporary, off-premise way-finding signs are to be used for directional purposes only and shall be

limited to four (4) per event; may be erected on private property only; may not exceed six (6) square feet or four (4) feet in height per sign; and may not be erected for more than twelve (12) days in any calendar year per event; and may not be placed in a public right-of-way.

- W. Accessory Use Construction: Signs naming the company & construction skill being implemented on the parcel/lot. Examples: replacement windows, concrete patios, asphalt, decks and landscaping not to exceed four (4) square feet. Sign(s) shall be removed 30 days after receiving a letter from Marion Township.

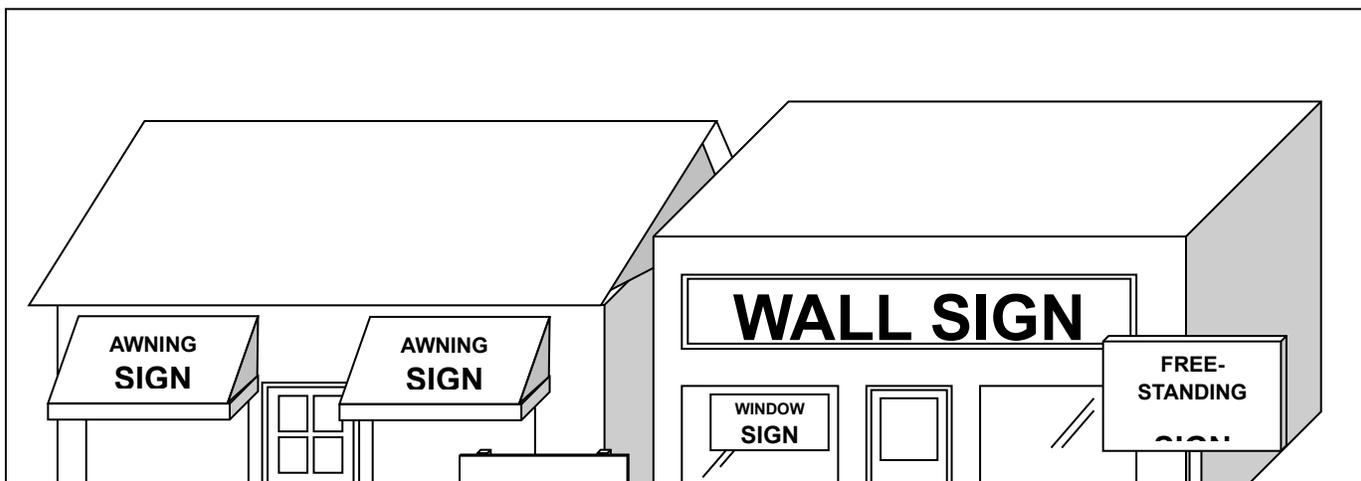
**Section 15.05 Schedule of Sign Regulations**

The schedule provided below summarizes the quantity, maximum area, maximum height, and minimum setback from existing road rights-of-way permitted for signage requiring a permit under this Section. Detailed requirements for the signs listed below are provided under subsections 15.06 and 15.07. Wherever conflict exists between the following schedule and the standards of those subsections, those subsections shall prevail.

<b>Sign</b>	<b>Number</b>	<b>Max. Area</b>	<b>Max. Height</b>	<b>Min. Setback</b>
<b><i>Signs in Residential Districts (Sec. 15.06)</i></b>				
Agricultural Product Signs	1	20 s.f.	4 ft.	15 ft.
Farm Signs	1	32 s.f.	6 ft. <sup>1</sup>	15 ft.
Home Occupation & Home-based Business Wall Sign, or	1	4 s.f.	4 ft.	n/a
Home-based Business Freestanding Sign	1	6 s.f.	4 ft. <sup>1,7</sup>	1/2 required front setback
Non-Profit Organization Signs	1	32 s.f.	6 ft.	15 ft.
Residential Development Entranceway Signs	2/entrance	20 s.f.	6 ft.	15 ft.
Temporary Construction Signs	1/frontage	32 s.f.	6 ft.	15 ft.
<b><i>Signs in Non-residential Districts (Section 15.07)</i></b>				
Awning and Canopy Signs	N/A	25% of surface <sup>2</sup>	n/a	per district
Free-Standing Signs	1/frontage	1/2 s.f. per foot of frontage <sup>3</sup>	6 ft.	15 ft.
Gasoline Price Signs	1	20 s.f.	6 ft.	15 ft.

<b>Sign</b>	<b>Number</b>	<b>Max. Area</b>	<b>Max. Height</b>	<b>Min. Setback</b>
Marquee Signs	1/frontage	1½ s.f. per foot of building frontage	per district	per district
Menu Board Signs	2	60 s.f.	6 ft.	15 ft.
Office or Industrial Development Entranceway Signs	2/entrance	36 s.f.	6 ft.	15 ft.
Temporary Construction Signs	1/frontage	32 s.f.	6 ft.	15 ft.
Time/Temperature/Stock Market Signs	1/frontage	N/A <sup>4</sup>	6 ft. <sup>1</sup>	15 ft. <sup>1</sup>
Wall Signs	1/frontage <sup>5</sup>	1 s.f. per foot of building frontage <sup>6</sup>	see below	n/a
Window Signs	N/A	25% of window area	n/a	n/a

1. If sign is free-standing.
2. Such signs shall be counted in determining compliance with maximum permitted area of wall signage.
3. Not to exceed 32 s.f., unless premises contains multiple tenants, in which case 4 s.f. may be added per additional tenant, up to a maximum of 64 s.f.
4. Such signs shall not be counted in determining compliance with wall or free-standing sign area requirements.
5. Or one per tenant having individual public access.
6. Not to exceed 60 s.f., unless such signs are set back at least 150 ft., in which case such signs shall not exceed 200 s.f.
7. If substituted for wall sign in Rural Residential District.



## **Section 15.06      Signs in Residential Districts**

The following signs shall be allowed in the RR, SR, UR, ERS#1, and ERS#2 zoning districts, subject to permit approval in accordance with Section 4.03 and the following standards. Such signs shall only pertain to permitted or special land uses or a legally nonconforming non-residential use, and shall be located upon the same property to which the sign relates, unless otherwise provided herein.

- A.      Agricultural Product Signs: In the RR and SR districts, one sign advertising agricultural and/or horticultural products grown on the premises shall be permitted in conjunction with a temporary roadside stand. The sign shall not exceed twenty (20) square feet in area, four (4) feet in height nor be located closer than fifteen (15) feet to any property line. The sign shall be erected not more than two weeks prior to opening of sales and removed within one (1) week of the end of sales.

- B. Farm Signs: Signs in the RR and SR districts displaying the name of farm, not to exceed thirty-two (32) square feet in area and six (6) feet in height if freestanding. One (1) such sign shall be permitted per farm, in addition to the home occupation sign permitted under item C below. Such a sign may be indirectly illuminated, provided that all lighting equipment for these signs shall be designed to illuminate the sign only and shall not interfere with driver visibility or cause glare on adjoining properties.
- C. Home Occupation/Home-based Business Signs: one (1) wall sign per parcel containing a permitted home occupation, not exceeding four (4) square feet in area. Such signs may not be illuminated, and must be consistent with the residential character of the neighborhood in which they are to be located. For home-based businesses within RR and SR districts, one (1) freestanding sign may be substituted for a wall sign. Free-standing signs shall not exceed six (6) square feet in area or four (4) feet in height and shall be located no closer than fifteen (15) feet from the road right-of-way (ROW.)
- D. Non-Profit Organization Signs: Permanent, free-standing signs identifying churches, schools, museums, libraries or other non-profit institutions, at a rate of one (1) sign per parcel, with a minimum setback from the street right-of-way of fifteen (15) feet, which does not exceed thirty-two (32) square feet in area and six (6) feet in height.
- E. Residential Development Entranceway Signs: Permanent freestanding signs or signs affixed to decorative walls or fences identifying the entrances of residential developments such as subdivisions, apartment complexes, condominium communities, senior housing complexes, mobile home parks and similar residential uses, at a rate of two (2) per entranceway not to exceed a total of two (2), with a minimum setback from the street right-of-way of fifteen (15) feet, and not exceeding twenty (20) square feet in area and six (6) feet in height. Where such sign is placed upon a decorative wall or fence, the area of the sign shall be computed by measuring the area of the envelope required to enclose the lettering, graphics and border, if any, not the entire decorative wall or fence.
- F. Temporary Construction Signs: Temporary signs which advertise the construction of new residential subdivisions or similar permitted development, not to exceed thirty-two (32) square feet in area and six (6) feet in height. Such signs shall be removed immediately after the last available lot, home site or parcel is sold.

## **Section 15.07 Signs in Non-residential Districts**

The following signs shall be allowed in the HS, LI, and PL zoning districts, subject to permit approval in accordance with Section 4.03 and the following standards. Such signs shall only pertain to permitted, special land uses or legally nonconforming and shall be located upon the same property to which the sign relates, unless otherwise provided herein.

- A. Signs for Residential District Uses in a Nonresidential District: Signs for non-conforming residential district uses in a nonresidential district shall be governed by the sign regulations for residential district uses.
- B. Signs for legally Nonconforming Non-Residential Uses. Signs for legally nonconforming nonresidential uses in an office, commercial or industrial district (for example, a legally

nonconforming commercial use in an industrial district) shall be governed by the sign regulations which are appropriate for the type of use, as specified in this Section.

- C. Awning and Canopy Signs: Permanent signs on awnings and canopies shall be permitted, subject to the following standards:
1. *Coverage*. The total area of the lettering and logo shall not exceed twenty-five (25) percent of the total area of the awning or canopy that is visible from the street.
  2. *Compliance with Size Requirements for Wall Signs*. The area of signs on awnings or canopies shall be counted in determining compliance with the standards for total area of wall signs permitted on the parcel.
  3. *Projection*. Limitations imposed by this Ordinance concerning projection of signs from the face of a wall or building shall not apply to awning and canopy signs, provided that such signs shall comply with the setback requirements for the district in which they are located.
- D. Free-Standing Signs: Freestanding signs shall be permitted, subject to the following regulations:
1. *Number*. One (1) permanent freestanding sign shall be permitted per street or highway frontage on each parcel. In multi-tenant buildings or shopping centers the sign area may be used to identify the name of the shopping center or multi-tenant building.
  2. *Size*. The total area of the freestanding sign shall not exceed one-half ( $\frac{1}{2}$ ) of a square foot per lineal foot of lot frontage, but in no case shall the freestanding sign exceed thirty-two (32) square feet in area. Premises having multiple tenants may add an additional four (4) square feet to the permitted sign area for each tenant beyond the first one, but not to exceed a total of sixty-four (64) square feet.
  3. *Height*. The height of a freestanding sign shall not exceed six (6) feet.
  4. *Setback from the Right-of-Way*. Freestanding signs may be located in the required front yard, provided that no portion of any such sign shall be located closer than fifteen (15) feet to the existing right-of-way line. If a parcel is served by a private road or service road, no portion of a freestanding sign shall be closer than fifteen (15) feet to the edge of the road or private road easement/right-of-way.
  5. *Setback from Residential Districts*. Freestanding signs shall be located no closer than fifty (50) feet to any residential district.
- E. Gasoline Price Signs: Gasoline price signs shall be permitted, subject to the following standards:
1. *Number*. One (1) freestanding gasoline price sign shall be permitted for each gas station.
  2. *Size*. Gasoline price signs shall not exceed twenty (20) square feet in area. Gasoline price signs shall not be counted in determining compliance with the standards for total area of wall or freestanding signs permitted on the parcel.

3. *Height.* The height of a freestanding gasoline price sign shall not exceed six (6) feet.
  4. *Setback.* Gasoline price signs shall comply with the setback and height requirements specified for freestanding signs in the district in which the signs are located.
- F. Menu Board: Up to two (2) signs each no greater than sixty (60) square feet in area and six (6) feet in height which display menu items and contain a communication system for placing food orders at an approved drive through restaurant, provided such sign(s) is not in the front yard.
- G. Office or Industrial Development Entranceway Signs: Permanent freestanding signs or signs affixed to decorative walls or fences identifying the entrances of office, research or industrial developments, condominiums, or subdivisions composed of multiple businesses on individual lots or units and served by its own public or private road. Such signs shall be provided at a rate of two (2) per entranceway, with a minimum setback from the street right-of-way of fifteen (15) feet, and not exceeding thirty-six (36) square feet in area and six (6) feet in height. Where such a sign is placed upon a decorative wall or fence, the area of the sign shall be computed by measuring the area of the envelope required to enclose the lettering, graphics and border, if any, not the entire decorative wall or fence. Such decorative walls and fences shall be governed as provided under Section 5.8.
- H. Temporary Construction Signs: Temporary signs which advertise the construction of new non-residential development, not to exceed thirty-two (32) square feet in area and six (6) feet in height. Such signs shall be removed immediately after the last available lot; unit or parcel is sold or leased.
- I. Time/Temperature/ Signs: Time, temperature signs shall be permitted, subject to the following conditions:
1. *Frequency of Message Change.* The message change shall not be more frequent than once every minute.
  2. *Size.* The area of these types of signs shall not be included within the maximum sign area permitted on the site.
  3. *Number.* One (1) such sign shall be permitted per street frontage.
- J. Wall Signs: Wall signs shall be permitted, subject to the following standards:
1. *Number.* One (1) permanent wall sign shall be permitted per street or highway frontage on each parcel. In the case of a multi-tenant building or shopping center, one (1) wall sign shall be permitted for each tenant having an individual means of public access. Tenants who occupy a corner space in a multi-tenant structure shall be permitted to have one (1) sign on each side of the building. Where several tenants use a common entrance in a multi-tenant structure, only one (1) wall sign shall be permitted, but the total sign area should be allocated on an equal basis to all tenants.

2. *Size.* The total area of a wall sign shall not exceed one (1) square foot per lineal foot of building frontage, but in no case shall the wall sign exceed sixty (60) square feet in area. Buildings which are setback more than one hundred fifty (150) feet back from the road right-of-way may be allowed to have a maximum square footage, (based upon the preceding lineal foot formula) not to exceed two hundred (200) square feet.
  3. *Location.* One wall sign may be located on each side of a building that faces a street or highway.
  4. *Vertical Dimensions.* The maximum vertical dimension of any wall sign shall not exceed one fourth (1/4) of the building height.
  5. *Horizontal Dimensions.* The maximum horizontal dimension of any wall-mounted sign shall not exceed one-half (1/2) of the width of the building.
  6. *Height.* The top of a wall sign shall not be higher than whichever is lowest:
    - a. The maximum building height specified for the district in which the sign is located.
    - b. The height of the building facing the street on which the sign is located.
  7. In addition to the wall signage described above, one (1) wall sign measuring no greater than fifteen (15) square feet in area shall be permitted at the rear of buildings which have a parking lot or alley located there. In the case of a multi-tenant building or shopping center, one (1) wall sign shall be permitted for each tenant having an individual means of public access facing the rear of the building.
- K. Window Signs: Temporary and permanent window signs shall be permitted on the inside in commercial and industrial districts provided that the total combined area of such signs (including incidental signs) shall not exceed one-quarter (1/4) or twenty-five (25) percent of the total window area. Temporary window signs shall not be displayed longer than fourteen (14) days.

## **Section 15.08 Billboards**

Billboards may be permitted by Special Use Permit in the Highway Service and Light Industrial District pursuant to Section 17.06. Billboards are not permitted in any other district. Land may not be rezoned to permit erection of a billboard as a principal use or accessory use.

## **Section 15.09 Sign Design Standards**

### A. Illumination

1. *General Requirements.* If illumination is proposed, signs shall be illuminated only by steady, stationary, shielded light sources directed solely at the sign, or internal to it.

2. *Non-Glare, Shielded Lighting.* Use of glaring undiffused lights or bulbs shall be prohibited. Lights shall be shielded so as not to project onto adjoining properties or thoroughfares, and shall not exceed fifteen (15) footcandles, measured perpendicular to the sign face, at a distance of four (4) feet from the lighting.
3. *Traffic Hazards.* Sign illumination that could distract motorists or otherwise create a traffic hazard shall be prohibited.
4. *Bare Bulb Illumination.* Illumination by bare bulbs or flames is prohibited.

B. Location

1. *Within a Public Right-of-Way.* No sign shall be located within, project into or overhang a public right-of-way.
2. *Setback Requirements.* All signs shall comply with the setback requirements for the district they are located in, except as otherwise permitted herein, and provided that no freestanding sign is located closer than 15 feet from any lot line.
3. *Clear Vision Area for Motorists.* No sign shall be erected within the clear vision area at the intersection of any two streets or other public/private ways. The clear vision area shall meet Livingston County Road Commission standards.

C. Height No freestanding sign shall be greater than six (6) feet in height, unless otherwise provided in this Article XV.

D. Measurement

1. *Sign Area Measurement.* Sign area shall be computed as follows:
  - a. *General Requirements.* Where a sign consists of a generally flat surface or sign face on which lettering and other information is affixed, the sign area shall be computed by measuring the entire face of the sign including any framing or borders, but not including the base, pedestal, or other supports upon which the sign may be mounted.
  - b. *Individual Letters.* Where a sign consists of individual letters and/or logo affixed directly to a wall or building, the area of the sign shall be computed by measuring the area of the envelope required to enclose the lettering and/or logo.
  - c. *Free-Standing Signs.* The area of a double-faced freestanding sign shall be computed using only one (1) face of the sign provided that: 1) the outline and dimensions of both faces are identical, and 2) the faces are back-to-back so that only one face is visible from any given direction. In the case of a multi-faced free-standing sign having more than two sides or those having two sides not back-to-back as described above, the area of the sign shall be computed using the total of all faces of the sign.
  - d. *Cylindrical Sign.* The area of a cylindrical ground sign shall be computed by multiplying the circumference of the cylinder by its height.

2. *Height Measurement.* The height of a sign shall be measured along a straight vertical line from the average grade beneath the sign to the highest point of the sign or supporting structure.
3. *Setback and Distance Measurements.* The following guidelines shall be used to determine compliance with setback and distance measurements:
  - a. The distance between two signs shall be measured along a straight horizontal line that represents the shortest distance between the two signs.
  - b. The distance between a sign and a parking lot or building shall be measured along a straight horizontal line that represents the shortest distance between the outer edge of the parking lot or building.
  - c. The distance between a sign and a building or property line shall be measured along a straight horizontal line that represents the shortest distance between the sign and the building.

### **Section 15.10 Sign Permit Review Process**

- A. Permit Required. It shall be unlawful for any person to erect, alter, relocate, or structurally change a sign or other advertising structure, unless specifically exempted under Section 15.4, without first obtaining a permit in accordance with the provisions set forth herein. A permit shall require payment of a fee, which shall be established by resolution of the Township Board.
- B. Permit Application Contents. Application for a sign permit shall be made upon forms provided by the Zoning Administrator, or his or her designee. The following information shall be required:
  1. Name, address and telephone number of the applicant, as well as that of the property owner, if the applicant is not the property owner.
  2. A sketch plan indicating the following:
    - a. Current zoning classification;
    - b. Location of the building, structure, or lot on which the sign is to be attached or erected;
    - c. Position of the sign in relation to nearby buildings, structures, and property lines.
  3. A scale drawing of each sign, indicating the size, shape, message, lettering style, color and materials of the finished sign. All required copies must also be in color.
  4. Plans, specifications and method of construction and attachment to the building or the ground.
  5. Building elevation sketches showing the position and size of each sign on the building and the location and size of any existing sign(s) on the same structure.

6. If the sign will be illuminated, plans shall include all details regarding the location, type of fixture, and color of the illumination, as well as the method of shielding.
  7. Written consent of the owner or lessee of the premises upon which the sign is to be erected.
  8. Other information deemed necessary by the Zoning Administrator (or designee) or Planning Commission, on a case-by-case basis, to establish compliance with applicable laws and regulations.
- C. Review by Zoning Administrator. Upon receipt of a completed sign permit application, the Zoning Administrator (or designee) shall review the sign permit application, and take one of the following actions:
1. *Approval.* Upon finding that the proposed signage conforms to all applicable standards found in this section and elsewhere in the Zoning Ordinance, they shall approve the sign permit application, with or without conditions, and issue the sign permit. Should the approval be conditional, said conditions shall be satisfied within the time set by the Zoning Administrator, or his or her designee, or the permit will be considered to be denied.
  2. *Postpone.* Upon finding that the proposed signage does not conform to all applicable standards found in this section and elsewhere in the Zoning Ordinance, but could if revised or supplemented, the Zoning Administrator, or his or her designee, may postpone action on the sign permit application, until a revised application is submitted. If the Zoning Administrator, or his or her designee, chooses to postpone action on the sign permit application, the deficiencies of the application shall be explained to the proprietor in writing.
  3. *Denial.* Upon finding that the proposed signage does not conform to all applicable standards found in this section and elsewhere in the Zoning Ordinance, the Zoning Administrator, or his or her designee, may deny the sign permit application. Should the sign permit application be denied, the reason(s) for rejection of the application shall be given in writing.
- D. Review by Planning Commission Concurrent with Site Plan. Sign details shall be submitted with proposed site improvements that require site plan review and approval by the Planning Commission concurrent with site plan review. If approval of a proposed sign is desired by the applicant at the time of site plan review, the sign must be shown on the site plan, including all information required for a sign permit application listed above under sub-section B.

## **Section 15.11 Inspection and Maintenance**

In accordance with Article IV of this Ordinance, the Zoning Administrator (or designee) shall be charged with the administration and enforcement of the provisions of this Section.

- A. Inspection of New Signs. All signs for which a permit has been issued shall be inspected by the Zoning Administrator, or his or her designee, when erected. Approval shall be granted only if the sign has been constructed in compliance with the approved plans and applicable Zoning Ordinance. Failure to receive the Zoning Administrator's approval for a completed sign shall constitute a determination that the sign is in violation of this Ordinance, in which case the owner and/or erector of such sign may be subject to legal action.

- B. Sign Maintenance. All signs shall be maintained in a condition similar to that which existed at the time of their erection. At minimum, all signs and all awnings with sign components shall be kept clean, free of missing or loose parts, free of blistering or peeling paint, and without missing or obsolete sign panels.
- C. Correction of Defects. If a sign falls out of compliance with the provisions of this Section, it shall be the responsibility of the sign owner to bring the sign back into compliance or remove the sign entirely.

### **Section 15.12      Legally Nonconforming Signs**

No legally nonconforming signs shall be altered or reconstructed, unless the alteration or reconstruction is in compliance with this ordinance, except that legally nonconforming signs shall comply with the following regulations:

- A. Repairs and Maintenance. Normal maintenance shall be permitted, provided that any legally nonconforming sign that is destroyed by any means to an extent greater than sixty (60) percent of the sign's pre-catastrophe fair market value, exclusive of the foundation, shall not be reconstructed. Normal maintenance shall include painting of chipped or faded signs; replacement of faded or damaged surface panels, name changes, repair or replacement of electrical wiring or electrical devices.
- B. Change of Copy. A legally nonconforming sign may undergo a "change of copy" or the replacement of names, logos, symbols, numbers or other graphic items of information as long as the structural characteristics, including size, shape, and frame, are not modified.
- C. Legally Nonconforming Changeable Copy Signs. The message on a legally nonconforming changeable copy sign or legally nonconforming bulletin board sign may be changed provided that the change does not create any greater non-conformity.
- D. Substitution. No legally nonconforming sign shall be replaced with another non-conforming sign.
- E. Modifications to the Principal Building. Whenever the principal building on a site on which a legally nonconforming sign is located is modified to the extent that site plan review and approval is required, the legally nonconforming sign shall be removed. However, a change of use or occupant, when not accompanied by a change in the principal building, shall not necessitate the removal of legally nonconforming signs.

### **Section 15.13      Removal of Prohibited Signs in Public Places**

The Marion Township Zoning Administrator, or his or her designee, shall have the authority to remove any sign determined to be in violation of the preceding section that is located upon public property. Notification of the sign owner shall not be required. Such signs shall be held at the Township offices for five (5) days upon removal.

### **Section 15.14      Placement of Signage within Public Rights-of-Way**

The placement of signage within public road rights-of-way shall be regulated by the Livingston County Road Commission. No sign shall be installed within such rights-of-way except in accordance with Livingston County Road Commission regulations.

**Section 15.15 Appeals**

Any party who has been refused a sign permit for a proposed sign may file an appeal with the Zoning Board of Appeals, in accordance with Article V of this Ordinance.

**ARTICLE XVI: SPECIAL USE PERMITS**

**Section 16.01 Purpose and Intent**

Special Use Permits are approved, denied or approved with conditions by the Board of Trustees after review and recommendation by the Marion Township Planning Commission for uses that require special consideration due to their potential impact on the community.

While promoting the intent and purpose of the Zoning Ordinance, Special Use Permits provide a set of procedures and standards for specific uses of land or structures and specified in Article XVII of this ordinance that will allow practical latitude for the investor or developer and ensure that the land use or activity authorized shall be compatible with adjacent uses of land, the natural environment, and the capacities of public services and facilities affected by the land uses.

In order to provide control and reasonable flexibility, this Article permits detailed review of certain specified types of land use activities, which, because of their particular and unique characteristics, require special consideration in relation to the welfare of adjacent properties and to the community as a whole.

Land use and structure use possessing these characteristics may be authorized within certain zoning districts by the issuance of a special use permit.

By such a procedure, the Planning Commission shall have the opportunity to recommend to the Board of Trustees conditions of each application, which are deemed necessary for the protection of the public welfare. Such conditions shall be based on standards in this Zoning Ordinance.

## **Section 16.02      Procedures**

An application for a special use permit for any special land use or structure identified as such in a particular zoning district and permitted under this Article shall be submitted and processed under the following procedures.

- A.    **Submission of Application:** Any application shall be submitted to the Zoning Administrator on a special form for that purpose. Each application shall be accompanied by the payment of a fee as established by the Township Board to cover costs of processing the application.
  
- B.    **Data Required:** Every application shall be accompanied by special form supplied by the Zoning Administrator filled out in full by the applicant, including the information necessary for a site plan approval as required by Article 18 and any other information that may be necessary to demonstrate compliance with the standards set forth in Article 17 for a specific special land use.
  
- C.    **Check for Completeness and Accuracy:**
  - 1.    Within five (5) working days of receipt of the submission of an application, the Zoning Administrator shall determine whether it is in proper form, contains all required information, and appears to show compliance with all applicable provisions of Section 16.02.
  
  - 2.    Upon certification by the Zoning Administrator that the necessary site plan information and application form are complete, one (1) complete copy of the site plan and related information shall be forwarded to the Planning Commission and the Zoning Administrator. The Zoning Administrator may also submit one (1) copy of the site plan to each of the following agencies considered to be impacted or affected by the special use permit application.

- a. County Road Commission
- b. County Health Department
- c. County Drain Commissioner
- d. Fire Department providing service to that part of the Township
- e. Other agencies as relevant

**Section 16.03 Planning Commission Public Hearing**

The Planning Commission shall review the site plan and application at its next scheduled meeting following receipt from the Zoning Administrator. After adequate study and review, incorporating information provided by reviewing agencies listed in Section 16.02.C 2, the Planning Commission shall publish a notice of public hearing for a special land use application. The notice shall be published in a newspaper of general circulation in the Township and shall be sent by mail or personal delivery to the owners of property for which approval is being considered, to all persons to whom real property is assessed within three hundred (300) feet of the boundary of the property in question, and to the occupants of all structures within three hundred (300) feet regardless of whether the property or occupant is located within the Township. The notice shall be given not less than fifteen (15) days before the application will be considered for approval.

If the name of the occupant is not known, the term "occupant" may be used in making notification. Notification need not be given to more than one occupant of a structure, except that if a structure contains more than one dwelling unit or spatial area owned or leased by different individuals, partnerships, businesses or organizations, one occupant of each unit or spatial area shall receive notice. In the case of a single structure containing more than four dwelling units or other distinct spatial areas owned or leased by different individuals, partnerships, businesses or organizations, notice may be given to the manager or owner of the structure who shall be requested to post the notice at the primary entrance to the structure.

**The notice shall:**

- A. Describe the nature of the special land use request.
  
- B. Indicate the property, which is the subject of the special land use request. The notice shall include a listing of all existing street addresses within the property, if such addresses exist. If there are no street addresses, other means of identification may be used.
  
- C. State when and where the special land use request will be considered.
  
- D. Indicate when and where written comments will be received concerning the request.

At the public hearing, the applicant or a representative shall present the project to the public and the Planning Commission. The Planning Commission shall give members of the public the opportunity to comment on the application and shall consider the comments in their evaluation of the application.

#### **Section 16.04 Planning Commission Action**

After review of the application for the special land use, required county, state, or federal permits pursuant to the requirements of Section 6.16 B2, and the public hearing, the Planning Commission shall recommend approval, denial, or approval with conditions to the Board of Trustees. The Planning Commission recommendation shall be incorporated in a statement of conclusions relative to the special land use under consideration and shall specify the basis for the recommendation and any conditions. The Board of Trustees shall consider the application at their next regular meeting or if requested by the applicant, the Board of Trustees may schedule a special meeting.

#### **Section 16.05 Basis for Determination**

Both the Planning Commission and the Board of Trustees shall employ and be guided by standards which shall be consistent with and promote the intent and purpose of this Zoning Ordinance, and ensure that the land use or activity authorized shall be compatible with adjacent uses of land, the natural environment, and the capacities of public services and facilities affected by the land use. The land use or activity shall be consistent with the public health, safety, and welfare of Marion Township and shall comply with the following standards:

- A. **General Standards:** Each application shall be reviewed for the purpose of determining that each proposed use meets the following standards and, in addition, shall find adequate evidence that each use on its proposed location will:

1. Be harmonious with and in accordance with the general principles and objectives of the Comprehensive Plan of the Township.
2. Be designed, constructed, operated and maintained so as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity and that such a use will not change the essential character of the area in which it is proposed.
3. Not be hazardous or disturbing to existing or future uses in the same general vicinity and will substantially improve property in the immediate vicinity and in the community as a whole.
4. Be served adequately by essential public facilities and services, such as highways, streets, police, fire protection, drainage structures, refuse disposal, water and sewage facilities and schools.
5. Not involve uses, activities, processes, materials and equipment or conditions of operation that will be detrimental to any person, property or general welfare by reason of excessive production of traffic, noise, smoke, fumes, glare or odors.
6. Meet the intent and purpose of the zoning regulations; be related to the standards established in the Ordinance for the land use or activity under consideration; and will be in compliance with these standards.
7. Ensure that landscaping shall be preserved in its natural state, insofar as practicable, by minimizing tree and soil removal, and by topographic modifications, which result in maximum harmony with adjacent areas.
8. Ensure that special attention shall be given to proper site surface drainage so that removal of storm waters will not adversely affect neighboring properties.

9. Ensure that all exterior lighting shall be so arranged 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.
10. Meet the site plan review requirements of Article XVIII. If the applicant chooses to submit a preliminary site plan, the special use permit may also be considered preliminary.
11. Conform to all applicable state and federal requirements for that use.

### **Section 16.06 Relationship to Specific Standards**

The foregoing general standards are basic to all uses authorized by special use permit. The specific and detailed requirements set forth in Article XVII relate to particular special land uses and are requirements, which must be met by those uses in addition to the foregoing general standards, and requirements.

### **Section 16.07 Permits**

- A. **Validity of Permit:** A special use permit issued under Section 16.05 shall be valid for a period of one (1) year from the date of the issuance of said permit. If construction has not commenced and proceeded meaningfully toward completion by the end of this one (1) year period, the Zoning Administrator shall notify the applicant in writing of the expiration or revocation of said permit, provided, however, that the Board of Trustees may waive or extend the period of time in which the permit is to expire if it is satisfied that the owner or developer is maintaining a good faith intention to proceed with construction.

Once the special land use is established and the conditions of the permit fulfilled, the special use permit shall be valid until such time that there is a change of conditions or use related to the permit.

- B. **Permit Revocation:** The Township Board shall have the authority to revoke any special use permit following a hearing, after it has been proved that the holder of the permit has failed to comply with any of the applicable conditions specified in the permit. After a revocation notice has been given, the use for which permit was granted must cease within sixty (60) days.

Failure to terminate the use for which the permit was revoked within sixty (60) days is declared to be a nuisance per se and a violation of the Zoning Ordinance. (See Sections 4.04 and 4.05.)

### **Section 16.08      Reapplication**

No application for a special use permit which has been denied wholly or in part by the Township Board shall be resubmitted until the expiration of one (1) year or more from the date of such denial, except on the grounds of newly discovered evidence or proof of changed conditions. A reapplication shall require a new fee, and the process will have to begin all over again.

### **Section 16.09      Changes in the Site Plan**

The site plan, as approved, shall become part of the record of approval, and subsequent actions relative to the activity authorized shall be consistent with the approved final site plan, unless a change conforming to the Zoning Ordinance receives the mutual agreement of the landowner and the Planning Commission.

### **Section 16.10      Appeals**

An appeal on a special use permit decision may be taken to the Circuit Court.

### **Section 16.11      Fees**

An application fee shall be established by resolution of the Board of Trustees. Before final approval, any costs incurred by the Township shall be paid for by the applicant.

## **ARTICLE XVII:      STANDARDS FOR SPECIFIC SPECIAL LAND USES**

The following standards apply to the uses of land permitted by special use permit. The regulations contained in this Article shall be applied in addition to any other applicable, standard or regulation contained elsewhere in this ordinance unless specifically noted.

### **Section 17.00      Adult Entertainment Uses**

- A. No adult entertainment use shall be located within one thousand (1,000) feet of any other adult entertainment use nor within four hundred (400) feet of any of the

following uses:

All Class "C" establishments licensed by the Michigan Liquor Control Commission.

Pool or billiard halls.

Coin or token operated amusement centers.

Teen centers or dance halls.

Ice- or roller-skating halls.

Pawn shops.

Theaters.

Any public park.

Any church.

Any public or private school having a curriculum including kindergarten or any one or more of the grades one (1) through twelve (12).

Such distance shall be measured along the centerline of the street or streets or addresses between two (2) fixed points on the centerlines determined by projecting straight lines at right angles from the part of the above listed uses nearest to the contemplated location of the structure containing the adult entertainment use.

- B. No adult entertainment use shall be located within four hundred (400) feet of any areas zoned residential. Such required distances shall be measured by a straight line between a point on the boundary line of a zoned residential area nearest to the contemplated structure or contemplated location of the structure containing the adult entertainment use nearest to the boundary lines of a zoned residential area.
- C. All adult entertainment uses shall be contained in a freestanding building. Enclosed malls, commercial strip stores, common wall structures, and multi-uses within the same structure do not constitute a freestanding building.
- D. No adult use shall be conducted in any manner that permits the observation of any material depicting, describing or relating to "Specified Sexual Activities" or "Specified Anatomical Areas" from any public way or from any property not regulated as an adult entertainment use. This provision shall apply to any display, decoration, sign, show window, or other opening.

## **Section 17.01 Adult Foster Care Small Group Home and Adult Foster Care Large Group Home**

### **A. Locational Requirements**

1. Adult foster care small group homes and adult foster care large group homes are permitted by special use permit in the Rural Residential, Suburban Residential and Urban Residential districts.
  
2. Adult foster care small group and/or large group homes shall be located a minimum of 1,500 feet from the lot boundaries of any of the following facilities:
  - a) A licensed group or family child care home
  - b) A child care center
  - c) Another adult foster care group home
  - d) A facility offering substance abuse treatment and rehabilitation services to seven (7) or more people as licensed under the state public health code.
  - e) A community correction center, resident home, halfway house, or other similar facility that houses an inmate population under the jurisdiction of the Michigan Department of Corrections.
  
3. The distance shall be measured along public road rights-of-way between the nearest boundaries of the proposed foster care home lot and the facility lot. The subsequent establishment of any of the facilities listed in this subsection shall not affect any approved Special Use Permit for an adult foster care small group and/or large group home.

### **B. Site Requirements:**

1. Minimum lot size for an adult foster care small group or large group home is three (3) acres.
2. Property shall have frontage on a public road.
3. Off-street parking shall be provided to accommodate the maximum number of employees of the largest shift, plus one (1) space for every five (5) adults that can be accommodated by the facility.
4. A designated passenger loading/unloading area shall be provided near a barrier-free entrance to the facility, and shall be of sufficient size so as to not create congestion on the site or within a public roadway.
5. The layout and operation of the group home shall protect the surrounding neighborhood from unreasonable noise, traffic and related impacts.
6. The adult foster care small group and/or large group home premises shall be constructed or maintained consistent with the visible character of single-family dwellings.
  - a) One free-standing sign that identifies the facility is permitted. The sign shall be a maximum of twenty (20) square feet in size and located a minimum of fifteen (15) feet from the road right-of-way.
  - b) Construction, expansion, and alteration of such uses shall be subject to site plan approval per Article XVIII.
7. Appropriate licenses from the State of Michigan shall be maintained.

**C. Buffering Requirements:**

1. Property lines which abut a residentially zoned or used property shall be screened according to the applicable provisions of Section 6.13.
2. Parking areas and delivery vehicle loading/unloading areas shall be screened according to the applicable provisions of Section 6.13.
3. No building shall be closer to any rear or side lot line than forty feet.

## **Section 17.02      Agricultural Processing and Distribution**

Such uses shall include, but need not be limited to, the following: grain elevators for storage, drying and sales; bulk feed and fertilizer outlets and distribution centers; seed dealership outlets and distribution centers; grain and livestock, truck and cartage facilities; agricultural products, production and processing operations; and auctions for livestock.

- A. **Locational Requirements:** Agricultural processing and product distribution establishments are permitted by special use permit in the Rural Residential District.
- B. **Site Requirements:** Minimum lot or parcel size shall be five (5) acres and have a minimum lot frontage of three hundred thirty (330) feet.
- C. **Buffering Requirements:** Trucking, outside storage, loading and dock areas shall be fenced and screened, pursuant to the requirements of Sections 14.05.E.
- D. **Performance Standards:**
  1. No storage or loading activities shall be permitted within one hundred (100) feet of any lot line.

2. All buildings shall be set back a minimum of fifty (50) feet from any lot line.

### **Section 17.03 Asphalt and Concrete Batching Facilities**

#### **A. Locational Requirements:**

1. Asphalt batching facilities are permitted by special use permit in the Light Industrial District.
2. Routes of supply vehicles or material handling vehicles shall be arranged so as to minimize nuisances or hazards to existing residential neighborhoods or commercial businesses.
3. Ingress and egress to the facility shall be only from a major thoroughfare. The Planning Commission may approve access to an unpaved or county local road if the Commission finds that such access point will further minimize impacts on other properties.
4. Before permit approval is granted, the Planning Commission shall find that such batching facility is both incidental to and necessary for construction activities within six (6) miles of the plant.

#### **B. Buffering Requirements:** Buffer zones shall comply with the requirements of Section 6.13.

#### **C. Performance Standards:**

1. No noise, dust, or fumes from the operation shall be discernable at or beyond the lot.
2. Adequate measures will be taken to prevent lights, drainage, and traffic from creating a nuisance on uses of adjacent properties.
3. All permitted materials shall be maintained in a neat and orderly manner and shall be covered and/or wet down regularly so as to prevent debris from leaving the area of the site.
4. Hours of operation shall be set by the Planning Commission after consideration of the surrounding land uses and the particular traffic patterns on public haul routes in the area. The maximum range of hours is Monday through Saturday from 7:00 a.m. to 6:30 p.m. and shall be prohibited on legal holidays and Sundays. The Zoning Administrator may provide temporary exemptions from hours of operation for an operator who must repair equipment or for public emergencies.
5. If the plant is temporary, the Planning Commission shall require a performance guarantee (pursuant to Section 4.06) conditioned upon the removal of the facilities and return of the site to an acceptable condition upon completion of activities and as specified in the special use permit.
6. The facility shall comply with the performance standards of the district.

#### **Section 17.04 A Automobile Repair Garage**

- A. **Locational Requirements:** Automobile Repair Garages are permitted by special use permit in the Highway Service District.
- B. **Site Requirements:**

1. The minimum lot size of the district shall be met.
2. The minimum lot width and frontage shall be two hundred (200) feet.
3. All gasoline pumps shall be located not less than thirty (30) feet from the edge of the road right-of-way and shall be arranged so that motor vehicles using them will not be parked on or overhanging any public sidewalk or road right-of-way.
4. The entire parking area shall be hard-surfaced and adequately drained.
5. Ingress and egress to the facility shall be only from a major thoroughfare, or from a shared access drive to such roadway.
6. Curb cuts and driveways shall be reviewed and approved by the Livingston County Road Commission based on current standards.
7. Driveway approach width shall meet Livingston County Road Commission current standards.
8. There shall be no above-ground outdoor storage/dispensing tanks on the site without leak-proof secondary containment sufficient to accommodate one hundred twenty percent (120%) of the volume of the tank. Such containment measures shall be designed and approved by the appropriate federal, state or local authority having jurisdiction prior to installation.

**C. Buffering Requirements:**

1. Buffer zones shall comply with the requirements of Section 6.13.

2. Dumpsters shall be screened by vegetation, fencing or brick enclosure per requirements in Section 14.05 E.
3. All lighting shall be shielded per requirements in Section 14.04 E.

**D. Performance Standards:**

1. Hydraulic hoists, service pits, lubricating, greasing, washing/repair equipment and operations shall be located within a completely enclosed structure.
2. Storage of vehicles rendered inoperative for any reason, and vehicles without current license plates and registration, shall be limited to a period of not more than thirty (30) days and then only for the purpose of temporary storage pending transfer to a junkyard. Such storage shall not occur in front of the building.
3. Sales of new and used motorized vehicles shall not be permitted.
4. No public address system shall be audible from any abutting residential parcel.
5. All floor drains shall be designed to current township policy.
6. All flammable liquids, solvents, cleaners, and other hazardous substances capable of contaminating groundwater shall be stored within the building and secondary containment measures shall be installed and utilized to prevent spilled materials from contacting the ground. Such containment

measures shall be designed and approved by the appropriate federal, state, or local authority having jurisdiction prior to installation.

7. All handling of flammable or hazardous substances shall be in accordance with local, state and federal laws and all required local, state and federal permits shall be obtained prior to final township approval and the establishment shall remain in conformance therewith.
8. A car wash may be established as part of the principal structure or as a separate structure, but shall conform to all setback requirements for a principal structure.

#### **Section 17.04 B Automobile Fueling/Mixed-Use Stations**

A. **Locational Requirements:** Automobile Fueling/Mixed-Use stations are permitted by special use permit in the Highway Service District.

B. **Site Requirements:**

1. The minimum lot size of the district shall be met.
2. The minimum lot width and frontage shall be two hundred (200) feet.
3. All gasoline pumps shall be located not less than thirty (30) feet from the edge of the road right-of-way and shall be arranged so that motor vehicles using them will not be parked on or overhanging any public sidewalk or road right-of-way.
4. The entire parking area shall be hard-surfaced and adequately drained.

5. Ingress and egress to the facility shall be only from a major thoroughfare, or from a shared access drive to such roadway.
6. Curb cuts and driveways shall be reviewed and approved by the Livingston County Road Commission based on current standards.
7. Driveway approach width shall meet Livingston County Road Commission current standards.
8. There shall be no above-ground outdoor storage/dispensing tanks on the site without leak-proof secondary containment sufficient to accommodate one hundred twenty percent (120%) of the volume of the tank. Such containment measures shall be designed and approved by the appropriate federal, state or local authority having jurisdiction prior to installation.

**C. Buffering Requirements:**

1. Buffer zones shall comply with the requirements of Section 6.13.
2. Dumpsters shall be screened by vegetation, fencing or brick enclosure per requirements in Section 14.05 E.
3. All lighting shall be shielded per requirements in Section 14.04 E.

**D. Performance Standards:**

1. No public address system shall be audible from any abutting residential parcel.

2. All floor drains shall be designed to current township policy.
3. All flammable liquids, solvents, cleaners, and other hazardous substances capable of contaminating groundwater shall be stored within the building and secondary containment measures shall be installed and utilized to prevent spilled materials from contacting the ground. Such containment measures shall be designed and approved by the appropriate federal, state, or local authority having jurisdiction prior to installation.
4. All handling of flammable or hazardous substances shall be in accordance with local, state and federal laws and all required local, state and federal permits shall be obtained prior to final township approval and the establishment shall remain in conformance therewith.
5. A car wash may be established as part of the principal structure or as a separate structure, but shall conform to all setback requirements for a principal structure.

## **Section 17.05 Bed and Breakfast Establishments**

A. **Locational Requirements:** Bed and Breakfast establishments are permitted by special use permit in the Rural Residential, Suburban Residential, and Urban Residential Districts.

B. **Site Requirements:**

1. One (1) parking space per room to be rented shall be provided on site, in addition to the parking required for a single-family dwelling. Parking shall be arranged so as not to pose negative impacts on adjacent properties or necessitate on-street parking.
2. The parcel on which the establishment is to operate must meet or exceed

the minimum lot area requirements of the zoning district.

**C. Performance Standards:**

1. The bed and breakfast facility must be a single-family dwelling, which is operated and occupied by the owner of the dwelling.
2. The applicant shall provide a scaled floor plan of the premises as part of the special land use application.
3. The exterior appearance of the structure shall not be altered from its single-family character.
4. The impact of the bed and breakfast establishment on the neighborhood shall be no greater than that of a private home with weekend guests.
5. One sign is permitted providing:
  - a. It is for identification purposes only.
  - b. It is not internally illuminated and does not exceed four (4) square feet.
  - c. It shall be mounted flush to the principal structure.
6. No transient occupant shall reside on the premises for more than fourteen (14) consecutive days and not more than thirty (30) days in any one (1) year.
7. No separate or additional kitchen facilities shall be provided for the guests.

8. Retail sales are not permitted beyond those activities serving overnight patrons.
9. Meals shall not be served to the public at large but only to guests.
10. No receptions, private parties or activities for which a fee is paid shall be permitted.
11. Exterior solid waste facilities beyond what might normally be expected for a single-family dwelling shall be prohibited.

**Section 17.06 Billboards**

- A. **Locational Requirements:** Billboards are permitted by special land use permit in the Highway Service and Light Industrial Districts.
- B. **Performance Standards:**
  1. Not more than three (3) billboards may be located per linear mile of a federal aid primary trunkline highway, regardless of the fact that such billboard may be located on different sides of the subject highway. Linear limits shall be limited to the boundaries of the township. V-type structures shall be considered as two (2) billboards and a double-faced (back-to-back) structure shall be considered one (1) billboard.
  2. Billboards shall be located not closer than one hundred (100) feet from a road right-of-way and two hundred (200) feet from any road rights-of-way which intersect.

3. No billboard shall exceed three hundred (300) square feet in surface display area if placed to orient to I-96 and not more than seventy-two (72) square feet if placed to orient along any other street.
4. No billboard shall exceed twenty-five (25) feet in height.
5. Outdoor advertising structures may be illuminated provided, however, that said illumination is not visible beyond the lot lines of the parcel upon which the structure is located.
6. Outdoor advertising structures shall be adequately maintained. Such maintenance shall include proper alignment of structure, continued readability of structure and preservation of structure with paint or other surface finishing material. If an outdoor advertising structure is not maintained, written notice of any disrepair shall be issued to the owner of said structure. If the disrepair is not corrected within thirty (30) days, said structure shall be removed at the owner's expense.
7. The billboard must be constructed in such a fashion that it will withstand all wind and vibration forces, which normally can be expected to occur in the vicinity.

## **Section 17.07 Cemeteries and/or Mausoleums**

### **A. Locational Requirements:**

1. Cemeteries and/or mausoleums are permitted by special land use permit in Rural Residential and Suburban Residential Districts.
2. All ingress and egress to the site shall be from a major thoroughfare.

3. The site shall not interfere with the future development of a system of collector and larger streets in the vicinity.

**B. Site Requirements:**

1. The minimum lot or parcel size for cemeteries and/or mausoleums shall be twenty (20) acres.
2. No more than five (5) percent of the site area may be occupied by buildings.
3. All burial plots and all structures including but not limited to a mausoleum shall be set back no less than fifty (50) feet from any lot line or road right-of-way.
4. Adequate parking shall be provided on the site, at least fifty (50) feet from any lot line, and no cemetery parking shall be permitted on any public street.

**C. Buffering Requirements:** A ten (10) foot buffer zone containing screening plant materials approved by the Planning Commission is to be provided adjacent to all interior lot lines pursuant to the requirements of Section 6.13.

**D. Performance Standards:** All facilities for the ground burial area of the site shall be designed and constructed in accordance with the requirements of the Livingston County Health Department and the State of Michigan.

**Section 17.08 Child Care Centers**

A. **Locational Requirements:** Child care centers are permitted by special use permit in the Rural Residential (RR), Suburban Residential (SR), and Urban Residential (UR) Districts.

B. **Site Requirements:**

1. No portion of a child care center shall be located within three hundred (300) feet of any gasoline pumps, underground storage tanks, or any other explosive material.
2. A child loading/unloading area shall be designated which assures safe access to the center and will not impede circulation within the parking area or access to the site during peak hour traffic.
3. On-site traffic circulation shall be restricted to a one-way traffic pattern, where possible.
4. The child care center shall have frontage on a paved road if the number of children at peak enrollment exceeds twelve (12).
5. Child care centers in the SR and UR districts must have a minimum lot size of thirty-two thousand six hundred seventy (32,670) square feet (3/4 acre). Child care centers in the RR district must have a minimum lot size of two (2) acres.
6. The required outdoor play area shall be enclosed on its perimeter with a fence that is designed to discourage climbing, and is at least four (4) feet in height, but not higher than six (6) feet. Landscaping along the perimeter of the outdoor play area is required to provide shade and for screening purposes.
7. Off-street parking shall be provided at a rate of one (1) space per employee plus one (1) space for every five (5) children enrolled at the facility.
8. The layout and operation of the center shall protect the surrounding neighborhood from unreasonable noise, traffic and related impacts.

9. Appropriate licenses from the State of Michigan shall be maintained and copies shall be provided to the township. The township shall also be provided with copies of any notices of violation issued by the state to the facility.

10. The child care center shall be the primary structure on the parcel.

11. Outdoor Play Area

- a. An outdoor play area must be provided that is at least one hundred (100) square feet per child in size but not less than 1,200 square feet.
- b. The play area must not be located within the required setbacks of the subject parcel.
- c. The required outdoor play area may be waived by the Planning Commission if a public open space is within five hundred (500) feet of the subject parcel.

C. **Buffering Requirements:** Any child care center that abuts a residential use or zoned property shall be screened according to the applicable provisions of Section 6.13.

D. **Performance Standards:**

- 1. The child care center shall not operate between the hours of 10:00 pm and 6:00 am more than one (1) day per week, unless specifically permitted by the Planning Commission.
- 2. Operation and maintenance of all child care centers shall conform to existing applicable Livingston County and state regulations.

**Section 17.09 Commercial Recreation (Outdoor)**

Outdoor commercial recreation uses shall include, but need not be limited to, the following: miniature golf; animal racing, go-cart, automobile or motorcycle tracks; amphitheatres; amusement parks; drive-in theaters; air gun or survival games;

campgrounds (including youth camps, religious retreats and hunting camps), recreational vehicle parks or travel trailer parks; resorts; fairgrounds; batting cages; ski slopes; skate board parks; flea markets; uses similar to the above uses; and, uses accessory to the above uses, such as refreshment stands, retail shops selling items related to the above uses, maintenance buildings, offices for management functions, spectator seating and service areas, including locker rooms and rest rooms.

A. **Locational Requirements:** Outdoor commercial recreational uses are permitted by special use permit in the Highway Service District except for campgrounds which are also allowed in the Rural Residential District.

B. **Site Requirements:**

1. The site shall be located on a major thoroughfare.
2. Minimum site area shall be three (3) acres for: flea markets, batting cages, skateboard parks and miniature golf.
3. Ten (10) acres for: amphitheater, amusement parks, resorts and campgrounds. Minimum lot width shall be six hundred (600) feet.
4. Twenty (20) acres for all other listed commercial recreation uses. Minimum lot width shall be six hundred (600) feet.

C. **Buffering Requirements:**

1. No building or spectator seating facility shall be located within one hundred (100) feet of a lot line.
2. Front, side and rear yards shall be at least eighty (80) feet. The first fifty (50) feet of such yards shall not be used for off-street parking and shall be landscaped.

3. Whenever parking areas are adjacent to land zoned or used for residential purposes, a five (5) foot wall or greater shall be provided along the sides of the parking area adjacent to such residential land.
4. Racetracks and drive-in theaters shall be enclosed around the entire periphery with an obscuring screen fence at least eight (8) feet in height. Fences shall be of permanent finished construction, painted or otherwise finished neatly, attractively and inconspicuously.

**D. Performance Standards:**

1. The applicant shall provide evidence of compliance with all appropriate federal, state, county and local permits as appropriate.
2. Facilities shall provide off-street parking and passenger loading areas.
3. Adequate stacking area shall be provided for vehicles waiting to enter the lot.
4. Facilities which have a participant capacity greater than five hundred (500) people shall provide letters of review from the County Sheriff and Livingston County Road Commission with respect to the proposed project.
5. Exterior lighting shall be installed in such a manner so that it does not impede the vision of traffic along adjacent streets.
6. Facilities using night lighting adjoining a residentially zoned property shall deflect lighting away from these areas.

7. Excessive dust, noise, traffic, and trespassing shall not be inflicted on adjacent properties.
8. Outside storage shall be screened.
9. Landscaped areas shall be maintained in a healthy condition pursuant to Section 6.13.
10. Sites shall be periodically cleared of debris so that litter does not accumulate on adjacent properties.
11. In no case shall a recreational accessory use pre-date the installation and operation of the principal use. When the principal use ceases to operate, the accessory use shall immediately cease.
12. Accessory commercial activities shall be limited to those necessary to serve only the seasonal patrons of the facility.
13. Not more than sixty-five (65) percent of the land area shall be covered by recreational uses.
14. Central loudspeakers/paging systems are prohibited adjacent to residential property.
15. The intensity level of sounds shall not exceed seventy (70) decibels (dba) at the lot line of industrial uses; sixty-five (65) decibels at the lot line of commercial uses and fifty-five (55) decibels at the lot line of residential uses. The sound levels shall be measured with a type of audio output meter approved by the United States Bureau of Standards.
16. No temporary sanitary facility or trash receptacle shall be located within two hundred (200) feet of an existing dwelling.

17. All sanitary facilities shall be designed and constructed in strict conformance with Livingston County Health Department regulations.
18. Adequate trash receptacles shall be provided, as needed throughout the site.
19. Drive-in theater screens shall not face any public street and shall be so located as to be out of view from any major thoroughfare.
20. Operating hours for all uses shall be determined by the Planning Commission based on the nature of the use and the nuisance potential to adjoining property owners.
21. In the case of camping facilities:
  - a. Each campsite shall contain a minimum of fifteen hundred (1,500) square feet.
  - b. Each campsite shall be set back from any right-of-way or lot line at least seventy (70) feet.
  - c. A common use area shall be provided at a rate of five hundred (500) square feet per campsite.
  - d. There shall be no permanent storage of tents, campers, travel trailers or mobile home units in the development unless specifically permitted.
  - e. At least one (1) public telephone shall be provided in the facility.

- f. Maximum density for campgrounds shall be fifteen (15) campsites per acre.
- g. No more than one (1) permanent residence shall be allowed in a campground, which shall only be occupied, by the owner, manager or an employee.
- h. Separate toilet and bathing facilities shall be provided for each sex and shall contain hot and cold water at a ratio of one facility per twenty (20) campsites.
- i. Each campsite shall have a picnic table and designated place for fires.

### **Section 17.10 Communication Towers (Wireless Communication Facilities)**

**A. Locational Requirements:** Wireless Communication Support Facilities (WCSF) are permitted by special use permit in the Rural Residential, Suburban Residential, Urban Residential Highway Service, Light Industrial and Public Lands Districts. Wireless Communication Antenna (WCA) are a permitted accessory use when placed or attached to an approved structure.

**B. Purpose and Intent:** The general purpose and intent of this section is to regulate the establishment of wireless communication support facilities (WCSF) in recognition of the public need and demand for advanced telecommunication and information technologies and services balanced against the impacts such facilities may have on properties within Marion Township. It is the further purpose and intent of these regulations to;

1. Provide for the appropriate location and development criteria for WCSF and WCA with Marion Township; and

2. Allow and encourage the location of WCSF in any non-residential zoning district and in the Rural Residential District, unless otherwise provided herein; and
3. Minimize the adverse effects of such facilities through careful design, sighting and screening criteria; and
4. Protect the character of residential areas throughout Marion Township from the adverse effects of WCSF; and
5. Promote the public health, safety and welfare

### **C. Wireless Communication Antenna/Equipment (WCA/E)**

1. Wireless communications equipment is a permitted use of property and is not subject to special land use approval or any other approval under this act if all of the following requirements are met:
  - (a) The wireless communications equipment will be collocated on an existing WCSS or in an existing equipment compound.
  - (b) The existing WCSS or existing compound is in compliance with the zoning ordinance or was approved by Marion Township.
  - (c) The proposed collocation will not do any of the following:
    - i. Increase the overall height of the WCSS by more than 20 feet or 10% of its original height, whichever is greater.
    - ii. Increase the width of the WCSS by more than the minimum necessary to permit collocation.
    - iii. Increase the area of the existing equipment compound to greater than 2,500 square feet.
  - (d) The proposed collocation complies with the terms and conditions of any previous final approval of the WCSS or equipment compound by Marion Township.
2. An application for a special use permit of wireless communications equipment described in 1 a & b, but does not meet the requirements of subsection c & d, is

a permitted use of property if it receives special land use approval under the following conditions.

3. An application for special land use approval of wireless communications equipment described above shall include all of the following:
  - (a) A site plan including a map of the property and existing and proposed buildings and other facilities
  - (b) Any additional relevant information that is specifically required by a zoning ordinance provision.
4. After an application for a special land use approval is filed with the body or official responsible for approving special land uses, the body or official shall determine whether the application is administratively complete. Unless the body or official proceeds as provided under subsection (5), the application shall be considered to be administratively complete when the body or official makes that determination or 14 business days after the body or official receives the application, whichever is first.
5. If, before the expiration of the 14-day period under subsection 4, the body or official responsible for approving special land uses notifies the applicant that the application is not administratively complete, specifying the information necessary to make the application administratively complete, or notifies the applicant that a fee required to accompany the application has not been paid, specifying the amount due, the running of the 14-day period under subsection 4 is tolled until the applicant submits to the body or official the specified information or fee amount due. The notice shall be given in writing or by electronic notification. A fee required to accompany any application shall not exceed Marion Township's actual, reasonable costs to review and process the application or \$1,000.00, whichever is less.
6. The body or official responsible for approving special land uses shall approve or deny the application not more than 60 days after the application is considered to be administratively complete. If the body or official fails to timely approve or deny the application, the application shall be considered approved and the body or official shall be considered to have made any determination required for approval.
7. Special land use approval of wireless communications equipment described in subsection 2 may be made expressly conditional only on the wireless communication equipment's meeting the requirement of Marion Township's

ordinances and of federal and state laws before the wireless communications equipment begins operation.

8. If Marion Township requires special land use approval for wireless communications equipment that does not meet the requirements of subsection 1 a or for a wireless communications support structure, subsections 4 thru 6 apply to the special land use approval process, except that the period for approval or denial under subsection 6 is 90 days.
9. Marion Township may authorize wireless communications equipment as a permitted use of property not subject to a special land use approval.
10. This section shall not exempt the applicant from such other government and consultant reviews and permitting procedures (i.e., FCC, FAA, etc.)

#### **D. Wireless Communication Support Structure (WCSS)**

##### General Criteria

1. All WCSSs shall be constructed in compliance with all applicable construction codes
2. The WCSS shall comply with all applicable Federal Aviation Administration requirements
3. The WCSS shall not be used for advertising purposes and shall only be allowed a two square foot sign identifying the service provider's emergency telephone number(s). Said sign shall be attached to the fence enclosing the facility at the entrance to the WCSS facility/site
4. The WCSS may be located on a zoning lot containing a principal use(s)
5. A WCSS shall not be permitted on a lot that contains a nonconforming use
6. The WCSS site shall have a landscaped buffer consisting of conifer trees (species approved by Planning Commission) at a height of not less than six feet at time of planting and planted on fifteen-foot centers, unless safety requirements of the principal use requires otherwise, such as utility substations. A landscape buffer shall be planted around the entire exterior perimeter of the fenced WCSS site except for entrance gate area

7. Construction of the WCSS shall be of monopole design
8. If the WCSS/antenna mount is not of monopole design, the mount shall be certified by a registered civil engineer that the installation is in compliance with all applicable codes
9. The application shall contain information showing the geographic search area within which the proposed WCSS must be located and shall also provide data generated by Livingston County in GIS format regarding the locations of all structures of similar height within and adjacent to the search area
10. WCSSs shall have a non-reflective finish and shall be constructed of or treated with, corrosive-resistant material
11. A minimum of one parking spaces shall be provided on-site and interior to the perimeter barrier. The parking area shall be a permanent, durable and dustless surface and shall be so graded and drained as to dispose of all surface water
12. The distance between an occupied structure or a property line shall be no less than the height of the WCSS
13. All WCSSs shall be equipped with an anti-climbing device and an eight-foot-high chain link fence. An eight-foot-high entrance gate shall enclose all WCSF sites
14. WCSSs proposed to be located on a historic landmark or in a designated historic district may be denied if the WCSS would create an adverse impact on the historic character of the historic landmark or district
15. The Planning Commission or Board of Trustees may require a visual/line of site analysis to assess impacts. Such analysis may include a graphic representations or other acceptable methods to demonstrate the visualization
16. This section shall not exempt the applicant from such other government review and permitting procedures

#### **E. Replacement of Existing WCSS**

An existing WCSS which was lawful at the time of its construction may be replaced for purposes of accommodating collocation of additional WCAs provided that:

1. The replacement WCSS shall not exceed a total height of two hundred feet. If the existing WCSS has an approved height greater than two hundred feet the replacement WCSF shall not exceed the approved height
2. The replacement WCSS shall be located within the same zoning lot as the existing WCSS
3. If temporary portable antenna support facilities are used during the transition, they shall be removed within sixty days of Marion Township's final zoning compliance inspection of the replacement WCSS
4. The applicant shall remove the existing WCSS within one hundred eighty days of Marion Township's final zoning compliance inspection of the replacement WCSS
5. The replacement WCSS shall meet all criteria and requirements in subsection C 1, General Criteria
6. The installation of a replacement WCSS shall be reviewed by the Planning Commission and the Marion Township Board of Trustees may approve requests that meet the requirements of this section

**F. Review Criteria for all new WCSSs, except replacement WCSSs**

1. A new WCSS shall not be approved unless it can be demonstrated by the applicant that there is a need for the new WCSS found by the Planning Commission to be valid, which cannot be met by placing WCA on an existing WCSS or on other structures or replacement of an existing WCSS. Information concerning the following factors shall be considered in determining that such need exists:
  - i. Insufficient structural capacity of existing WCSSs or other suitable structures and infeasibility of reinforcing or replacing an existing WCSS
  - ii. Unavailability of suitable locations to accommodate system design or engineering on existing WCSSs or other structures
  - iii. Radio frequency interference or other signal interference problems at existing WCSS or other structures

iv. Other factors that demonstrate the reasonable need for the new WCSS

2. The applicant shall include a statement in the application that it will allow the collocation of the WCA of other entities, provided that the cost of modifying the WCSS to accommodate the collocation WCA is borne by the co-locating entity and providing that there are no physical restraints from preventing said collocation. If there are physical restraints that would prevent the collocation for a WCA, the applicant shall demonstrate what those restraints are and why they would prevent the collocation of another WCA. Otherwise, that applicant shall be bound to allow collocation of another WCA shall be cause to revoke the special use permit for a WCSS.
3. The applicant shall send a written notice to all potential users of the new WCSS offering an opportunity for collocation. The list of potential users shall be provided by Marion Township based on those entities who have requested approval of a WSCS in the past, current FCC license holders and any other entities requesting to be included on the list. Copies of the notice letters shall be provided to Marion Township at the time the application is filed. If during a period of thirty days after the notice letters are sent to potential users, a user or user's request, in writing, to co-locate in the new WCSS, the applicant shall accommodate the request(s), unless collocation is not reasonably possible, based on the criteria of this subsection.

**G. Application requirements for New WCSSs**

1. A site plan prepared in accordance with Article XVIII-Site Plan Requirements shall be submitted, showing the location, size screening and design of all buildings and structures including fences and the location and size of outdoor equipment and the location, number and species of proposed landscaping
2. The application shall include a certification by a State of Michigan licensed and registered professional engineer of the applicant with regard to the manner in which the proposed structure will fall
3. The application may include a description of the security to be posted at the time of receiving a land use permit for the facility to ensure removal of the Facility when it has been abandoned or is no longer needed, as provided in paragraph H – Removal of Abandoned WCSSs. The security shall be in the form of cash, letter of credit or an agreement in a form approved by the township's attorney establishing the land in question as security for removal

4. The name, address and phone number of the person to contact for engineering, maintenance and other notice purposes. This information shall be continuously updated during all times the WCSS is on the premises
5. Review fees, other than Special Use Permit Application and Site Plan Review Application for any specified review deemed necessary by the Planning Commission shall be established by the Board of Trustees. This shall include but not limited to an independent review by a radio frequency engineer

#### **H. Removal of abandoned WCSSs**

Any WCSS which is abandoned shall immediately be removed or demolished. For the purposes of this section, abandoned shall mean that no WCA or other commercial antenna has been operational and located on the WCSS for 180 days or more. Where a WCSS is abandoned but not removed or demolished as required, Marion Township may remove or secure the removal of the WCSS. The cost of removal and reasonable administrative charges to be drawn from the security posted at the time application was made or Marion Township may place a lien on the property to cover costs for the removal of the WCSS.

#### **I. Variances and Appeals**

Variances from this section may be requested from the Zoning Board of Appeals.

### **Section 17.11 Churches or Religious Institutions**

#### **A. Locational Requirements:**

1. Churches and religious institutions shall be permitted by special use permit located in Rural Residential, Suburban Residential, and Urban Residential Districts.
2. The site shall have at least one (1) lot line on a paved road.

3. All ingress and egress for the site shall be from a major thoroughfare.

**B. Site Requirements:**

1. The site shall be at least two (2) acres in size, plus one-half (1/2) acre per one hundred (100) seats in the main sanctuary.
2. No more than twenty-five (25) percent of the site area shall be covered by buildings. No more than sixty (60) percent of the site shall be covered by impervious surface.
3. No building shall be closer than fifty (50) feet from any lot line or right-of-way.
4. No building shall be erected to a height greater than that permitted in the district in which it is located unless the building is set back an additional one (1) foot from the initial fifty (50) feet for each one (1) foot of additional height above the district height limitation. The spire is excluded.

**C. Buffering Requirements:** Parking areas shall be screened from adjacent residential areas pursuant to Section 6.13.

**D. Performance Standards:**

1. No day care center, private school, or other use requiring a special use permit shall be allowed without a separately approved special use permit for each use.

2. Signs shall be limited to one (1) identification sign and one (1) changeable message board. The identification sign shall have a maximum area of twenty-four (24) square feet. Both signs may be lighted but not internally.

## **Section 17.12 Drive-in Establishments**

- A. **Locational Requirements:** Drive-in establishments are permitted by special use permit in the Highway Service District.
- B. **Site Requirements:**
  1. The site shall have at least one (1) lot line on a major thoroughfare.
- C. **Buffering Requirements:** Shall meet the requirements of Section 6.13.
- D. **Performance Standards:**
  1. The outdoor space used for parking and vehicle stacking shall be hard surfaced and adequately drained pursuant to Section 14.04.D.
  2. All areas used for the storage of trash and rubbish shall be screened by a vertical screen consisting of structural or plant materials no less than five (5) feet in height, with a view-obstructing door.
  3. Drive-in restaurant management shall provide adequate trash and litter policing for the parking lot and the shoulders of adjacent roadways. These areas shall be completely cleared of accumulated debris as often as necessary.

4. No drive shall be closer to any other drive than seventy-five (75) feet and the maximum number of driveways permitted is two (2).
5. Vehicular circulation patterns into and out of such businesses shall be located and designed to minimize disruption of and conflicts with through traffic movement on abutting streets.
6. Devices for the transmission or broadcasting of voices or music shall be so directed or muffled as to prevent said sound or music from being audible beyond the boundaries of the site.

### **Section 17.13      Excavation Operations (*Amended 10/2000*)**

#### **Statement of Purpose**

This section is intended to regulate the use of land for all types of excavation operations including, but not limited to all types of strip, tunnel or shaft mining and quarrying. Special use regulations and special use application evaluation procedures are needed because mining and quarrying may pose significant land use problems, including environmentally damaging changes in topography, impairment of the load bearing capacity of adjacent land and roads, safety hazards due to heavy truck traffic on roads not designed for such traffic, levels of noise from mining and related operations, threats to air quality from dust and other emissions, threats to water levels and quality from erosion and chemical emissions, aesthetic problems, zoning and licenses enforcement problems, land use compatibility problems, loss of natural resources, threat to desirable land use patterns and potentials, residential blight, and/or attractive nuisance hazards.

No mining or quarrying shall be permitted unless the township shall first have issued a special land use permit in accordance with the provisions of this section (Section 17.13) and the provisions set forth in Article XVI of this ordinance. It is the intent of these procedures and standards to ensure that mining and quarrying shall occur in places and ways which will be consistent with the public health, safety and welfare and to ensure that lands subject to mining and quarrying operations shall continuously be reclaimed

and rendered fully suitable for a use approved pursuant to the issuance of the applicable special use permit.

For the purpose of this section, "mining" and "quarrying" are defined as the removal from a parcel of land of any earth resource, however, "mining" and "quarrying" shall not include any of the following exempt activities:

A. **Exempt Activities:** A special use permit is not required for the following excavation activities, providing all other required permits have been obtained:

1. Grading and filling, when ancillary to commercial, industrial, or residential construction, provided valid building and soil erosion and sedimentation control permits have been issued.
2. Foundations and building pads for any building or structure, provided that a valid building and soil erosion and sedimentation control permits have been issued.
3. Minor landscaping projects, provided they do not encroach upon flood-prone areas, protected wetlands, natural drainage ways or the county drain system.
4. Swimming pool construction, provided a valid building and zoning permit has been issued for construction of the pool (See Section 6.04.).
5. Excavations relating to the accessory use of land and designed to be filled upon completion of excavation, such as septic tanks and drain fields, graves, etc.
6. Excavations or leveling for private drives to provide ingress or egress, which have been approved by the township and Livingston County Road Commission.
7. Accessory ponds established in conjunction with an agricultural or residential use.
8. Excavation from a single parcel of land during any calendar year of less than 1,000 cubic yards of material when such removal is not attendant to a development project, or less than 20,000 cubic yards of material when such

removal is attendant to an authorized development project or as may be modified by the Planning Commission.

B. **Locational Requirements:** Excavation operations are permitted in the Rural Residential District and the Public Lands District by special use permit only. In the case of excavation operations in the Public Lands District, materials taken from the site must be used for a public purpose.

C. **Site Requirements:** Minimum site of twenty (20) acres.

D. **Buffering Requirements:**

1. Notwithstanding any other minimum yard sizes required by this ordinance, excavation activities shall be set back from the following minimum distance, however, the Planning Commission may increase these setbacks should they determine that the protection of the public health, safety and welfare is further required:
  - a. One hundred fifty (150) feet from the right-of-way of any public street or road, private road, or highway.
  - b. One hundred fifty (150) feet from abutting residentially zoned property.
  - c. One hundred (100) feet from commercial or industrial zoned or developed abutting property.
  - d. Two hundred (200) feet from any natural or existing man-made surface water body, watercourse, or regulated wetland.
2. Perimeter landscape buffer zone (landscape materials and/or berms) shall be provided at a minimum of one hundred (100) feet in width that fully screens the operation from any adjoining public right-of-way or perimeter properties.

E. **Performance Standards:**

1. All operations shall be conducted in a safe manner, especially with respect to hazards to persons, damage to adjacent lands or collapse of supporting soil

adjacent to an excavation.

2. No operation shall be conducted in a manner so as to lower the water table on surrounding properties. A report by a qualified independent soil scientist, soils engineer, hydrologist, hydrogeologist or geologist regarding the surface water, the level of the water table and the size and location of existing and new water bodies on the site and within one-half (1/2) mile of the site shall be provided by the applicant. The report shall include a professional opinion as to each and every effect on the water table and private wells of property within one-half (1/2) mile of the site. The report shall also include a professional opinion whether the exposure of subterranean waters and/or the impoundment of surface waters, where permitted, will establish a stable water level at the level or levels proposed as part of the excavation operation, and that the same will not interfere subterranean water or cause any harm or impairment to the general public. The report shall include a ground and surface water quality analysis based on samples taken prior to the date of the application of which the report is a part. The analysis shall be completed by an applicable professional, and the report shall provide base line water quality to be used in determining compliance with the requirements of this ordinance.
3. The temporary stockpiling of topsoil or overburden, erosion, and similar operational problems shall not constitute a hazard to road traffic, pedestrians or adjoining property shall not be allowed in a required yard setback.
4. The design of the site plan shall provide features that prevent erosion or other operational problems that may constitute hazards to road traffic, pedestrians or adjoining properties.
5. Topsoil stockpiles shall be seeded to prevent wind and water erosion. Sufficient topsoil shall be stockpiled on the site so that all areas, which require vegetative restoration may be recovered with a minimum of six (6) inches of top soil when excavation operations are completed. The topsoil replacement shall be made immediately following the termination of excavating operations, and all replaced topsoil shall be immediately planted with grass or other plant material acceptable to the Planning Commission so as to prevent erosion on slopes. Those lands under water or in approved beach areas are excluded from topsoil replacement and planting requirements.
6. All excavations shall use the most current best management practices (BMP) so as to control erosion and limit the amount of sediment reaching surface waters.
7. The excavation shall be graded in a fashion, which will not cause water to

accumulate in stagnant pools.

8. Trees and other vegetation or ground cover shall not be prematurely stripped off the surface of the ground so as to unnecessarily expose areas of ground that are prone to wind or water erosion that will cause ground or dust to be carried by wind or water onto adjoining or surrounding properties, or onto public or private roads, or to create a nuisance.
9. The average intensity levels of sounds during operating hours shall not exceed seventy (70) decibels (dba) at the lot line of industrial uses; sixty-five (65) decibels at the lot line of commercial uses and fifty-five (55) decibels at the lot line of residential uses. The sound levels shall be measured with a type of audio output meter approved by the United States Bureau of Standards.
10. The site plan shall provide information on how equipment and buildings will be adequately designed so as to minimize the effect of air pollution, noise and vibrations upon adjacent properties.
11. Access to excavation areas shall be arranged to minimize danger to traffic and nuisances to surrounding properties.
12. Truck or heavy vehicle traffic related to excavation operations shall only use paved, major thoroughfares for access.
13. The site plan shall be designed so as to incorporate an area where vehicles egressing the site can be cleaned so as not to track mud or other debris onto any public right-of-way.
14. All vehicles used for the transporting of materials from any extractive use site shall travel to and from the site only on haul routes approved by the Livingston County Road Commission.
15. Additional equipment or machinery for the operations on the premises shall not be permitted unless specifically applied for in the application and covered by the permit issued.
16. The hours of operation shall be set by the Planning Commission after consideration of the surrounding land uses and particular traffic patterns on haul routes in the area. The maximum range of operation hours is Monday

through Friday from 7:00 a.m. to 7:00 p.m. The Planning Commission may allow limited operations on Saturdays between the hours of 8:00 a.m. and 3:00 p.m., and operations shall be prohibited on legal holidays and Sunday. The Township Supervisor may provide temporary exemptions from hours of operation for an operator who must repair equipment or for public emergencies.

17. All mining, quarrying and extractive sites shall be fenced prior to the commencement of operations and prior to the placement on the site of machinery or buildings. The fencing shall completely surround the borders of the subject property, provided, however, for good cause shown in relation to the protection of public safety and in view of the operations conducted, the Planning Commission may, at its discretion, modify the location of fencing providing the applicant can indicate why a modification is necessary. Such fencing shall be chain link or similar fencing with a minimum height of six (6) feet.
18. Any excavator shall be responsible for notifying the Michigan Department of State Bureau of History when human remains and/or artifact materials are discovered.
19. The excavation site shall not be used for the storage or disposal of any material brought from off the premises without prior approval from the township, county and state entities.
20. All work shall be undertaken and completed on a cell-by-cell basis. No work can begin in the next cell until reclamation in the previous cell is satisfactorily completed or underway pursuant to the Operations and Restoration Plan as set forth in the following item.
21. A detailed Operations and Restoration Plan for the extraction operation shall include the following:
  - a. Set forth in detail the arrangement and nature of all operations, including the quantity of each type of material to be removed and the machinery, equipment and methods to use in the operation.
  - b. Set forth a detailed explanation as to routing of commercial vehicles and their size, weight and frequency of trips. The applicant shall submit these

proposed routings to Marion Township, affected adjoining townships and cities, the Livingston County Road Commission, and the Michigan Department of Transportation, for review of the physical and design capabilities of these routes to accommodate the potential traffic. A letter from each jurisdiction indicating its comments shall be included as part of this application.

- c. Set forth in detail the amount and source of water to be utilized in processing, and the anticipated means and location of the dispersal of such water.
- d. Set forth in detail those features of the arrangement and nature of operations which will ensure that the operations have minimum negative impact on adjacent areas and on areas affected by the routing of trucks and other commercial vehicles.
- e. Set forth in detail the procedures to be employed to protect groundwater, water courses, water bodies and wetlands from contamination and erosion directly or indirectly caused by extraction and restoration activities. Procedures shall include the use of monitoring wells and the periodic sampling of water courses and water bodies for possible contamination caused by the extractive operation.
- f. Set forth in detail the procedures to protect groundwater levels and the direction and flow rates of subsurface aquifers. Methods for the disposition by controlled flow or controlled drainage of any excess water into existing drains or water courses, including wetlands, shall be so specified.
- g. Set forth in detail a timetable for each stage of the operation and a plan for restoration in one or more phases. The restoration plan shall specify:
  - 1) The use or uses to which each restored area will be put.
  - 2) The dates by which areas will be restored, as interim restored areas and final restored areas.
  - 3) The restoration topography drawn as contours at an interval of two (2) feet on USGS datum.
  - 4) The location of water bodies and other major physical features.

- 5) The location of areas to be partitioned or subdivided and the proposed layout of such areas.
  - 6) The methods and materials proposed for reclamation including topsoil and the amount and type of plantings.
22. All reclamation activities shall be initiated at the earliest possible date. Reclamation of the site concurrent with excavation activities shall be undertaken to the extent that reclamation activities will not interfere with the excavating activity or if the excavating activity will damage the reclaimed areas.
23. Excavated areas shall be reclaimed under the following standards:
- a. Vegetation similar to that which existed prior to the excavation process shall be restored by the appropriate seeding of grasses or the planting of trees and shrubs to establish a permanent vegetative cover on the land surface to minimize erosion. Such vegetation shall be of sufficient diversity to support a variety of wildlife species.
  - b. When excavation operations are completed, the excavated area shall be graded so that no gradients in disturbed earth are steeper than a ten (10) percent slope.
  - c. A layer of arable topsoil, of a quality approved by the Zoning Administrator, shall be spread over the excavated area, except exposed rock surfaces, or areas lying below natural water levels, to a minimum depth of six (6) inches in accordance with the approved contour plan (*see item 21.g.3. above*).
  - d. Excavation that has created or extended lakes, ponds or other bodies of water shall meet standards and specifications (particularly with respect to underwater slopes and drop-off) promulgated by the U.S. Department of Agriculture, Soil Conservation Service, and shall be approved by that agency.
  - e. Where excavation operation results in a body of water, the owner or operator shall place appropriate "Keep Out—Danger" signs around said premises not more than one hundred fifty (150) feet apart.

- f. Backfill and grading materials shall not be noxious, flammable or toxic.
24. Fill and soils shall not be overly compacted and of sufficient quality to be well drained, non-swelling. If the reuse plan involves development of dwellings or other buildings, fill and soils shall be of proper bearing capacity to support foundations and septic systems.
25. All temporary structures shall be removed from the premises upon completion of the excavation activity unless said structures are of sound construction and are compatible with the reclamation goals. Said structures shall be accurately depicted upon the approved reclamation plan.
26. If the reuse plan involves a recreational or wildlife facility, a recreation facility, or fisheries facility, a permit shall be approved by the Department of Environmental Quality.
27. The applicant(s) shall be responsible for payment of all application fees including, but not limited to, all costs incurred by Marion Township and/or its consultants in reviewing and evaluating the application as herein provided. The application shall be accompanied by a deposit in an amount sufficient to cover all anticipated costs of the township associated with the review of the application. Technical reviews shall address such issues as land use impacts, land value impacts, traffic flow and traffic safety impacts, water quality impacts, other natural resource impacts, compliance enforcement problems, land restoration costs and other technical issues. Independent technical reviews shall be prepared by appropriately qualified independent professionals to a level of detail appropriate to the proposed excavation operation.
28. The excavator shall be required to post a cash escrow account pursuant to Section 4.06 of this ordinance in the amount of not less than \$40,000 for the first twenty (20) acres or portion thereof, and a minimum of \$1,000 for each acre over twenty (20) acres, plus an amount up to one hundred (100) percent of the estimated reclamation costs of the last cell mined. In establishing the amount of the deposit, the township shall consider, but not be bound by, the applicant's estimate of the amount that will be required, provided such estimate is certified as accurate by an officer of each applicant. In determining the amount of the cash escrow account, the township may consider, but shall not be bound by, an independent appraisal of the actual cost of restoration. Such an appraisal shall be prepared by appropriately qualified independent professionals selected by the township. Costs incurred by the township for said appraisal shall be the responsibility of the applicant(s). The surety deposit shall be submitted by the applicant(s) prior to the issuance of the special land use permit.

F. **Materials to be submitted for Special Land Use Permit Review:** In addition to the data requirements of Section 18.03, each application for a special use permit shall be accompanied by plans, drawings, and information prepared by appropriate registered professionals depicting, at a minimum, the following:

Name and address of surface owner and mineral rights owner of land from which excavation activities will take place.

Name, address and telephone number of operator (person, firm or corporation who will be conducting the actual excavation).

Location, size and legal description of the total site area to be excavated for which special land use approval is sought, together with any and all land in Marion Township which any of the applicants and/or any person or entity affiliated with any of the applicants has any interest (whether as owner, tenant, optionee, vendor, vendee, lienholder or otherwise vested or contingent, present or future, direct or indirect.). Include legend showing a north point, scale and date.

Location, width and grade of all easements or rights-of-way on or abutting the area subject to excavation.

A statement from the applicant identifying all other federal, state, county and local permits required, if any.

Proof of liability insurance from the operator, principals and others as defined in the application and as identified on the Special Land Use Permit. Said liability shall fall on said applicant(s) based on their being named in the applicable Special Land Use Permit and those so named shall not escape liability even if they no longer meet the definition of Principals, Operators or others with an interest in the land and/or excavation operation.

Notification of any deed restrictions on the property. A record search of title to the lands described in the applicant's submittal shall be prepared by a reputable title company satisfactory to Marion Township and certified as of a date not more than thirty (30) days prior to the date of the application and disclosing all interests in the land on which the excavation operation is to be located including, but not limited to, the interests of each applicant and each lien or security interest with respect to any portion of such land.

Name of financial institution backing the excavation operation and who will issue

the irrevocable and unconditional letter of credit or other surety to be posted pursuant to this section.

Existing and proposed topography at two (2) foot contour intervals. Such topography shall extend a minimum of one hundred fifty (150) feet beyond the excavation site property lines.

The existing surface water and drainage patterns.

Vertical aerial photograph, enlarged to a scale of one (1) inch equals two hundred (200) feet, from original photography flown at a negative scale no smaller than one (1) inch equals one thousand (1,000) feet, and certified as flown not earlier than two (2) months prior to date of application. The vertical aerial photograph shall cover:

- a. All land requested in permit application.
- b. All contiguous land, which is or has been used by the owner or leaseholder applicant for excavation, processing, storage or other permitted use.
- c. All lands within one-half (1/2) mile of the proposed planned excavation use.
- d. Existing zoning classification overlaid on all areas shown on the map (aerial photograph).

A hydrogeologic report of the proposed excavation site. Such a report shall, at a minimum, provide:

- a. A detailed description of subsurface conditions.
- b. Depth of water table throughout the planned excavation area.
- c. A map depicting the thickness and depths of material to be excavated including a description of the methodology used in determining the thickness and depth of materials to be excavated.
- d. A discussion of the environmental impacts of the proposed excavation upon existing area wells within one-half (1/2) mile of the subject site.

- e. A recommendation of the necessity to install monitoring wells.

A discussion of the proposed method of excavation, including:

- a. The area and amount of material to be excavated in cubic yards.
- b. Proposed side slopes and depths for all portions of the excavated area.
- c. Proposed drainage system, settling ponds and retention ponds, as appropriate.
- d. The time, duration, phasing and proposed work schedule of the total project.
- e. The proposed location of any buildings, storage areas, stockpiling areas, and sorting or crushing equipment as appropriate.
- f. Area from which excavation will take place in the first year of operation and likewise for each successive year to completion.
- g. The proposed location of access points to the site and proposed haul routes for disposal of excavated material.
- h. Proposed plans for fencing and signs.
- i. Provisions for buffer zone, landscaping and screening.
- j. A detailed reclamation plan drawn to an acceptable scale, and program to be performed upon completion of each phase of the project. At a minimum, the plan of reclamation shall include:
  - 1) Physical descriptions of the location of each cell, number of acres included in each cell, estimated length of time to complete each cell in excavation.
  - 2) Depiction of finished, stabilized side slopes, including methods and plant

materials proposed for use.

- 3) Landscape plan for the portion of the property disturbed by excavation and associated activities, including an inventory of plant/tree species to be used.
- 4) A reuse plan for the site once excavation is complete.

Site plan and associated background reports shall document the method of compliance with the performance standards of this section.

G. **Other Conditions:** The conditions of any special use permit issued under this section apply not only to the owner but also to the operator, lienholder, and any other persons, firms and/or corporations who have been made subject to this special land use permit and who is either an owner or lessee of mineral rights or any other person engaged in or preparing to engage in excavation.

1. When an operator disposes of his interest in an excavation area prior to final reclamation by sale, lease, assignment, termination of lease, or otherwise, the Planning Commission may release the operator from the duties imposed upon him by this ordinance as to the operations, but only if the successor, operator or owner assumes the obligations of the former operator with reference to the reclamation activities. At that time, the special use permit may be transferred.
2. Excavation operations authorized by special use permits shall be inspected at a minimum of once a year by the Zoning Administrator, subject to an inspection fee to be paid by owner(s) and/or operator(s) of the excavation operation, in order to determine compliance with this ordinance and permits issued pursuant to this ordinance. Should the Zoning Administrator determine that a probable violation of the provisions of this section exists, a written notice of the probable violation and pertinent facts relating thereto shall be served on all applicants, lien holders and any other persons, firms and/or corporations who have been subject to liability pursuant to being part of the special land use process. Violations shall be consistent with the requirements found in Sections 4.04 and 4.05 of this ordinance. Should the township determine that the subject use has been operated in violation of the terms of this ordinance, including any conditions established pursuant to special use approval, the township shall implement such remedies as are appropriate to the circumstances. The remedies which the township may implement shall include, but shall not be limited to, any one or more of the following:

- a. Order that the operation and the property be brought into compliance.
  - b. Order the restoration of all areas disturbed by excavation operations.
  - c. Revoke the special land use permit for excavation operations.
  - d. Order such remedial actions as the township may determine necessary to correct environmental or other on-site and off-site damage that may have resulted from operation of the subject use in violation of the requirements of this ordinance, including the conditions of the applicable special land use permit.
  - e. Take such other actions as the township may determine are appropriate to the circumstances.
3. The general site plan may be modified at any time by mutual consent of the operator and the Planning Commission to adjust to changed conditions, technology or to correct an oversight.
4. When activities on, or use of the area subject to excavation, or any portion thereof, have ceased for more than one (1) year, as shown by examination of the premises, the operation shall be considered abandoned and a new special land use permit being necessary before additional excavation activities can occur.
- H. **Existing Excavation Areas:** All commercial excavation operations existing on the effective date of this ordinance shall be subject to the regulations above with regard to future operations. Future operations shall be considered a new operation and shall require a special use permit.

## **Section 17.14      Farm Markets**

- A. **Locational Requirements:** Farm markets are permitted by special use permit on major thoroughfares in the Rural Residential and Suburban Residential Districts.
- B. **Site Requirements:**

1. The minimum area of a lot used for a farm market shall be at least ten thousand (10,000) square feet and not more than twenty thousand (20,000) square feet. A farm market may be placed on the same lot as a dwelling unit if both are under the same ownership and if the owner of the farm market occupies the dwelling unit.
2. No activity or structure shall be located within twenty-five (25) feet of the public road right-of-way.
3. A minimum of six (6) spaces for off-street parking (paving not required), outside of the public road right-of-way, shall be required for the exclusive use of the farm market with additional spaces provided at a rate of one (1) space for each one hundred (100) square feet of gross floor area.
4. Suitable containers for rubbish shall be placed on the premises for public use.
5. A storage structure may be permitted provided it does not exceed two hundred (200) square feet in area.
6. Farm markets may be located no closer than one hundred (100) feet from any lot line that abuts a residential zone or dwelling unit.
7. There shall be one (1) access drive, which shall be wide enough to accommodate two (2) vehicles side-by-side.

C. **Buffering Requirements:** Shall comply with requirements of Section 6.13.

D. **Performance Standards:**

1. Hours of operation shall be between the hours of 7:00 a.m. and 7:00 p.m.
2. Any structure used as a farm market shall not be more than one (1) story high unless it is an existing barn.

### **Section 17.15      Golf Courses and Country Clubs**

A.    **Locational Requirements:** Golf courses and country clubs are permitted by special use permit in the Rural Residential and Suburban Residential Districts.

B.    **Site Requirements:**

1.    Minimum site shall be eighty (80) acres for a nine-hole course.
2.    Minimum site shall be one hundred sixty (160) acres for an 18-hole course.
3.    The minimum site for tennis, racket sport and swimming facilities shall be no less than four (4) acres.

C.    **Buffering Requirements:**

1.    A landscaped buffer zone shall be provided between the parking and principal building area and any adjacent residential development.

2. A fifty (50) foot minimum undisturbed buffer zone between turf areas and natural water bodies, watercourses or wetlands must be maintained. The buffer zone must contain natural vegetation and shall not be chemically treated.

**D. Performance Standards:**

1. Accessory uses may include: clubhouse/pro shop, managerial facilities, maintenance shed, toilets, lockers, standard restaurant and drinking establishments, tennis, racket sport, and swimming facilities. The clubhouse design is to be of a residential character and exterior materials are to be primarily wood or brick.
2. Major accessory uses such as a standard restaurant and bar shall be housed in a single building with the clubhouse. 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.
3. There may be a maximum of two (2) identification signs. Each sign may have a maximum area of thirty (30) feet. Both signs may be lighted but not internally.
4. All principal or accessory buildings and parking areas shall be not less than two hundred (200) feet from any lot line or abutting residentially zoned lands; provided that where topographic conditions are such that buildings would be screened from view, the Planning Commission may modify this requirement.
5. Access shall be so designed as to provide all ingress and egress directly onto or from a major thoroughfare.

6. The total lot area covered with principal and accessory buildings shall not exceed fifteen (15) percent.
7. All artificial lights shall be directed away from adjoining properties.
8. No outdoor loudspeaker or call system shall be audible on adjoining property.
9. Outside storage shall be properly screened.
10. No dwelling units shall be provided on the premises except for living quarters for a resident manager, watchman or caretaker. Those living quarters, if any, shall be constructed as part of the principal building.
11. A golf driving range accessory to the principal use of the golf course is permitted provided the area devoted to this use shall maintain a seventy-five (75) foot front yard and a one hundred (100) foot side and rear yard setbacks. The area shall be buffered by natural vegetation and fencing to minimize the impact upon adjoining properties.
12. Toilet facilities for use by patrons shall be located conveniently. Satellite restrooms are to be located away from lot lines and painted or finished in an earth tone color. Such facilities shall be approved by the Livingston County Health Department.
13. Golf courses shall retain and preserve native vegetation over at least thirty (30) percent of the total upland area of the course to reduce water demand, excessive soil erosion and heavy nutrient run-off.
14. Water quality protective

measures are  
required as follows:

- a. Maintenance of erosion control barriers during construction and until all ground cover is established.
- b. To the extent practicable, runoff must be directed to on-site holding/ sedimentation ponds with a water quality control structure installed at the outlet prior to water discharge from the premises.
- c. Site areas in proximity to fuel and chemical storage areas shall be designed to direct all runoff to an on-site ponding area.
- d. A chemical storage area must be designated within an accessory building. The area must provide secondary containment to prevent the spread of spills.
- e. An inventory manifest of stored chemicals must be posted at the entrance of the accessory building. Said listing must also be filed with the township.

15. At any time that widespread or non-spot application of herbicide, insecticide, fungicide or rodenticide is to occur, notification signs must be posted at lot lines. The signs are to state the type and name of the chemical, date and time of application, and other appropriate information. All chemical applications must be applied by a Michigan Department of Agriculture Licensed Applicator.

16. Chemicals shall meet the requirements of the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), the Environmental Protection Agency (EPA), and all appropriate state statutes and administrative directives.

17. In order to ensure that the site can be restored to prior conditions should golf course construction not be completed, the township may require posting of a performance guarantee or other acceptable security.

18. Swimming pools shall conform to the requirements of Section 6.04.

## **Section 17.16 Group Child Care Homes**

It is the intent of the township to provide for the establishment of Group Child Care Homes as a special land use subject to the following conditions in accordance with the provisions of Public Act 110 of 2006, as amended, and Public Act 116 of 1973, as amended.

### **A. Locational Requirements:**

1. Group child care homes are permitted by special use permit in the Rural Residential (RR), Suburban Residential (SR), Existing Residential Subdivision (ERS), and Urban Residential (UR) districts.
2. Group child care homes shall not be located closer than one thousand five hundred (1,500) feet to another licensed group child care home, adult foster care small group home or adult foster care large group home licensed under the Adult Foster Care Facility Licensing Act PA 218 of 1979, MCL 400.701 et seq, a facility offering substance abuse treatment and rehabilitation service to seven (7) or more people licensed under article 6 of the Michigan Public Health Code PA 368 of 1978, or a community correction center, resident home, halfway house, or other similar facility that houses an inmate population under the jurisdiction of the Michigan Department of Corrections. The required 1,500-foot distance noted above shall be measured from the lot boundaries of the above listed facilities.

### **B. Site Requirements**

1. General
  - a. An off-street drop-off area is to be provided with the capability to accommodate at least two automobiles in addition to the parking normally required for the residence. A driveway may be used for this purpose.
  - b. One (1) on-site parking space shall be provided for any assistant provider or caregiver not a resident on the premises.

- c. Playground equipment shall be located within the outdoor play area.
- d. One sign is permitted provided:
  - i. It is for identification purposes only.
  - ii. It is not internally illuminated and does not exceed four (4) square feet.
  - iii. It shall be mounted flush to the principal structure.
- e. The property shall be maintained in a manner so that its appearance is harmonious with the character of the neighborhood.

2. Additional Site Requirements for Group Child Care Homes in SR, ERS, and UR districts.

- a. There is a provision of an outdoor play area that is a minimum of six hundred (600) square feet in area. The outdoor play area shall be located within the required backyard and comply with the rear setback of the subject parcel. This requirement may be waived by the Planning Commission if a public open space is within five hundred (500) feet of the subject parcel.
- b. The required outdoor play area shall be enclosed on its perimeter with a fence that is at least four (4) feet in height, but not higher than six (6) feet. Landscaping along the outside perimeter of the fenced outdoor play area for screening purposes and within the outdoor play area to provide shade is required.

C. **Buffering Requirements:** Adequate provisions shall be made to reduce noise, traffic and related impacts on surrounding residential properties pursuant to the requirements of Section 6.13.

D. **Performance Standards:**

1. The group child care facility shall not operate between the hours of 10:00 pm and 6:00 am more than one (1) day per week, unless specifically permitted by the Planning Commission.
2. Operation and maintenance of all group child care facilities shall conform to existing applicable Livingston County and state regulations including, but not limited to, Public Act 116 of 1973, as amended.

## **Section 17.17      Hospitals**

### **A.      Locational Requirements:**

1.      Hospitals are permitted by special use permit in the Suburban Residential and Urban Residential Districts.
2.      The main means of ingress and egress to the hospital, related facilities, ambulance areas and delivery areas shall be only from a major thoroughfare as classified by the Livingston County Road Commission.

### **B.      Site Requirements:**

1.      The minimum lot or parcel size for hospitals shall be ten (10) acres.
2.      No more than thirty-five (35) percent of the site area shall be covered by buildings.
3.      The minimum distance of any building from right-of-way line shall be at least one hundred (100) feet for front, rear and side yards for all two-story structures. For every story above two, the minimum yard distance shall be increased by at least fifty (50) feet. Buildings less than two stories shall be no closer than forty (40) feet from any right-of-way. Hospitals may exceed the requirements in Section 7.05 Schedule of Regulations.

4. Primary access to and from any emergency services shall be directly from a major thoroughfare.
5. Noise producing activities, such as ambulance and delivery areas, laundry, or power plant shall not be located closer than three hundred (300) feet from any residential area.

**C. Buffering Requirements:**

1. Ambulance and delivery areas shall be obscured from all residential view by a solid masonry wall six (6) feet in height.
2. Parking areas shall be screened from surrounding residential areas by a wall or fence, in combination with suitable plant materials as specified in Section 6.13.
3. All lighting shall be shielded away from public right-of-way and neighboring residential lots.

**D. Performance Standards:**

1. All hospitals shall be licensed by the Michigan Department of Public Health.
2. Hospitals shall conform to applicable state and federal laws.

## **Section 17.18      Junkyards**

### **A.      Locational Requirements:**

1.      Junkyards are permitted by special use permit in the Light Industrial District.
  
2.      Ingress and egress to the facility shall be only from a major thoroughfare. The Planning Commission may approve access to an unpaved or county local road if the Commission finds that such access point will further minimize impacts on other properties.

### **B.      Site Requirements:**

1.      The minimum lot or parcel size for junkyards shall be five (5) acres.
  
2.      **Setbacks:**
  - a.      All enclosed areas shall be set back at least one hundred (100) feet from any front lot line.
  
  - b.      Junkyards shall not be located closer than two hundred (200) feet from the border of a Light Industrial District.
  
3.      Adequate standing and parking facilities shall be provided at the site so that no loaded vehicle at any time stands on a public right-of-way awaiting entrance to the site.
  
4.      Whenever the installation abuts a residential district, a transition strip at least two hundred (200) feet in width shall be provided between the enclosed area and the adjoining district. Such strip shall contain plants,

grass, and structural screens of a type approved by the Planning Commission.

**C. Buffering Requirements:**

1. The front yard shall be planted with trees, grass, and shrubs. The spacing and type of plant materials shall be consistent with the provisions of Section 6.13.
2. A solid fence, wall or earthen berm at least eight (8) feet in height shall be provided around the periphery of the site to screen said site from surrounding property. Such fence, wall or berm shall be of sound construction, painted or otherwise finished neatly and inconspicuously. Such fence, wall or berm shall be of permanent finish and construction.

**D. Performance Standards:**

1. All activities shall be confined within the enclosed area. There shall be no stocking of material above the height of the fence, wall, or berm, except that moveable equipment used on the site may exceed that height. No equipment, material, signs, or lighting shall be used or stored outside the enclosed area.
2. No open burning shall be permitted and all industrial processes involving the use of equipment for cutting, compressing, or packaging shall be conducted within a completely enclosed building.
3. All roads, driveways, parking lots, and loading and unloading areas within any junkyard shall be paved, oiled, watered, or chemically treated so as to limit the nuisance caused by wind-borne dust on adjoining lots and public roads.

4. The operation shall be licensed by the Michigan Secretary of State to sell used vehicle parts or tow non-operational vehicles. Before the state will issue the licenses, the Zoning Administrator and the County Sheriff shall certify that the facility is in a properly zoned area and that the operators have not been previously convicted as felons.
  
5. Any materials listed on the Michigan Critical Materials Register (gasoline and solvents) require secondary containment and a Pollution Incident Protection Plan filed with the Michigan Department of Natural Resources.

### **Section 17.19 Kennels (*Amended 3/2023*)**

The purpose of this section is to establish the standards and maintenance of operating a kennel within the township in order to protect the general health, safety, and welfare of residents and property owners and to preclude any harmful effects of such land use from occurring in any zoning district where such use may be permitted.

- A. **Locational Requirements:** Kennels are permitted by special use permit in the Rural Residential and Suburban Residential Districts.
  
- B. **Site Requirements:** A kennel shall be on a lot with a minimum lot size of two (2) acres for the first five (5) dogs and an additional one-third (1/3) acre for each additional animal thereafter.
  
- C. **Buffering Requirements:** Accessory buildings where dogs are kept, runs, exercise areas, and any other place where dogs are kept outside, shall be located at least fifty (50) feet from any lot line.
  
- D. **Barrier Requirements:** The dog runs or enclosures, exercise yards, and any places where the dogs are kept, either full-time or part-time, must be enclosed with a view obstruction noise barrier, such as a sound fence, to prohibit the escape of dogs. The fence or barrier shall have a minimum height of six (6) feet,

a maximum height of eight (8) feet, be at least three (3) feet from any of the runs, exercise areas, places where the dogs are kept, or any exterior property lines, wetlands, or ponds.

**E. Performance Standards:**

1. All kennels shall be operated in conformance with all applicable county, state and federal regulations.
2. Kennel indoor areas and any building used to house the dogs shall be insulated to minimize animal noises.
3. Dog nuisance barking that results in a nuisance to neighboring landowners or residents is prohibited. Sounds created by a kennel shall be subject to the Marion Township Nuisance Ordinance.
4. Exercise yards, when provided for training or exercising, shall not be used between the hours of 10:00 p.m. and 8:00 a.m.
5. Dog runs, exercise yards, and any places where the dogs are kept, either full-time or part-time, must be located in the rear yard only.
6. Kennel outdoor areas shall be screened from view by appropriate screening as determined by the Planning Commission in conformance with Section 6.13—Landscaping, Fencing, Walls, and Screens.
7. All dogs must be licensed, vaccinated, and maintained in a healthful and careful manner, in conformance with the Livingston County Animal Control Ordinance, Article LV, Section 1-7—Licensing and Vaccination.

8. The building, heating, water supply, electricity and sanitary facilities shall meet the requirements of township ordinances and the Livingston County Building Department. In addition, all kennels shall be regulated, inspected, and licensed by the Livingston County Animal Control Ordinance, Article IV, Section 1-7—Licensing and Vaccination.
9. The kennel shall be owned and operated by the owner of the property.
10. Kennel Indoor Area:
  - a. Indoor animal housing areas shall be provided with sufficient heating and cooling to protect animals from extreme temperatures and to provide for adequate care at all times. The ambient temperature shall be consistent with the needs of the canines and their life stage and medical condition. Adequate fresh drinking water must be present at all times for each animal.
  - b. Housing, whelping, and husbandry areas must be of sufficient size to allow room for each animal to stand and walk around freely, and exercise normal postural movements as well as allowing adequate room for bedding, food/water bowls, and the birth and care of any offspring.
  - c. The minimum size of the indoor enclosures shall be at least four (4) feet by four (4) feet square and four (4) feet high. There shall be a door or gate to each enclosure that allows easy access for inserting and removing the dogs. There shall be a minimum of one (1) enclosure per animal.
  - d. Each indoor enclosure shall have a door that allows access of the dog to an outdoor exercise area that is only accessible by a single indoor enclosure.
  - e. All floors within each enclosure shall be made of sealed or coated concrete to facilitate cleaning, drainage, and sanitation.
  - f. Indoor animal play areas shall be of sufficient size to allow for maintenance of sanitary conditions and to avoid overcrowding of animals.

- g. Convenient toilet and hand washing facilities with hot and cold running water shall be available to maintain personal hygiene of kennel staff.

11. Kennel Outdoor Area:

- a. Outdoor areas and exercise areas shall have enclosed walls or fences to keep animals secured and to restrict the entry of dangerous animals from the outside.
- b. Outdoor areas and exercise areas shall have adequate drainage to prevent standing water.
- c. Animals shall not be allowed in outside areas unless they are able, in the environmental conditions present at that time, to maintain the normal body temperature appropriate for that species.
- d. The exterior run or enclosure for each indoor enclosure shall be a minimum of four (4) feet wide and twelve (12) feet long and have direct access to the kennel building. The opening into the kennel building shall have a sliding or other type of closable door.
- e. Outdoor areas and exercise areas shall be provided with areas of shade and adequate shelter to protect from rain, snow, and weather detrimental to the health of the animal. Adequate fresh drinking water must be present at all time for each animal while in the outdoor or exercise areas.
- f. Dogs shall be supervised at all times when outdoors.
- g. The premises shall be kept in a clean and sanitary manner to prevent the accumulation of flies, the spread of disease, or offensive odor.
- h. Dog odors shall not be detectable beyond the lot lines of the property in which the kennel is located.

- i. Dust and drainage from the kennel building, exterior runs or enclosures, or exercise areas shall not create a nuisance or hazard to adjoining properties or uses.
- j. All waste shall be disposed of according to state, county, and federal regulations.

**Section 17.20 Motels and Hotels**

**A. Locational Requirements:**

- 1. Motels are permitted by special use permit in the Highway Service District.
- 2. Ingress and egress to the motel shall be only from a major thoroughfare.

**B. Site Requirements:**

- 1. There shall be at least eight hundred (800) square feet of lot area for each guest.
- 2. The maximum lot coverage of all buildings, including accessory buildings, shall not exceed twenty-five (25) percent of the area within the lot lines of land developed at any one time.

**C. Buffering Requirements:**

- 1. The front twenty-five (25) feet of the lot shall be landscaped buffer zone, unpaved, and shall not be used for off-street parking.
- 2. Trash dumpsters shall be screened from adjacent properties by vegetation, landscaping, or fences, pursuant to the requirements of Section 6.13.

D. **Performance Standards:**

1. No kitchen or cooking facilities shall be provided in guest rooms.
2. The minimum floor area of each guest unit shall be two hundred fifty (250) square feet.
3. No guest shall establish permanent residence at the motel.

**Section 17.21 Multiple-Family Site Condominium**

A. **Locational Requirements:** Multiple-family site condominium dwellings are permitted by special use permit in the Urban Residential and Suburban Residentials districts.

B. **Site Area Requirements:** All multiple-family dwelling units shall be permitted at a density no greater than ten (10) units per acre.

C. **Buffering Requirements:** Any multiple-family development adjoining any single-family residential district or any developed non-residential district shall be provided with a buffer zone planted pursuant to the requirements of Section 6.13.C.

D. **Performance Standards:**

1. All developments for multiple-family dwellings site condominium dwellings shall have direct access to the following Livingston County public paved roads in the Urban Residential, Suburban Residentials, and Highway Service districts:

- a. Howell Pinckney Road, D19
- b. Howell Mason Road
- c. State Road M-155

Provisions shall be made for safe and efficient egress and ingress to public streets and highways serving any development, which shall be designed to minimize congestion and interference with normal traffic flow.

- 2. All streets in the development shall be constructed in accordance with Private Roads, Article VI, Section 6.20.
- 3. All driveways and parking areas in the development shall be constructed and maintained with an all-weather road surface consisting of either asphalt or concrete. Driveways shall have a minimum paved width of ten (10) feet.
- 4. All dwelling units shall have principal access no more than one hundred fifty (150) feet from either an access drive or a public street and the required off-street parking area.
- 5. The distance between any two (2) residential structures that occupy the same site shall not be less than thirty (30) feet, if both of the walls facing each other contain windows or other openings, and not less than twenty (20) feet for all other situations; provided, however, a greater separation may be required where any structure exceeds thirty (30) feet in height and the location of such structure will tend to obstruct light to adjacent residential structures.
- 6. Maximum site coverage is thirty (30) percent. For purposes of this section, site area shall include the property boundaries of the development site excluding rights-of-way or dedicated access easements.

7. All developments shall be served with public sewer and water facilities.
8. The site shall be developed and facilities shall be provided in such a manner so as to insure adequate drainage.
9. There shall be provided easily accessible and useable open space in the development in an amount of ten (10) percent of the site area or two thousand (2,000) square feet per four (4) dwelling units, whichever is greater.
10. All off-street, community parking areas shall be adequately lit during hours of darkness.
11. All developments shall provide for underground installation of all utilities including Electrical, natural gas, communication,

and  
cable.

12.

Only non-  
residential  
land and/or  
building uses  
shall be  
permit:

a. One (1) office space for conducting the business of the development.

b. Utility areas for laundry facilities and auxiliary storage for tenants.

c. Recreation area such as community buildings, playgrounds, swimming pools, and open space for tenants.

13. Where firefighting capability is documented and confirmed to be adequate to permit a structure taller than thirty-five (35) feet, the Planning Commission may so permit the greater height, provided the setback of the structure from any lot line is not less than the height of the structure and

no other nuisance would befall abutting properties because of the greater height.

- 14. All developments for multiple-family site condominium shall have a secondary entrance for emergency vehicle access to the development if the primary entrance to the development is blocked. The secondary entrance shall be either a private road to a Livingston County public road or a gated emergency access private road constructed to Marion Township construction specifications and approved by the Howell Area Fire Marshall. The emergency secondary entrance location and construction shall meet the requirements of the current International Fire Code adopted by the Board of Trustees. This gated emergency access private road may access either a private road of another development or a Livingston County public road. It is the responsibility of the development's HOA per the Master Deed, Development Agreement and HOA bylaws to maintain the gated emergency access private road and keep the access clear of snow, trees, and all other vegetation.

**Section 17.22 Nursing or Convalescent Homes**

- A. **Locational Requirements:** Nursing or Convalescent homes are permitted by special use permit in the Urban Residential District.
  
- B. **Site Requirements:**
  - 1. There shall be a minimum of one thousand five hundred (1,500) square feet of open site area for each bed in the facility to provide for landscaping, parking, service drives, yards, recreational areas and accessory uses.
  
- C. **Buffering Requirements:**

1. Shall conform to the requirements of Section 6.13.C.
2. No building shall be closer than forty (40) feet to any lot line.

**D. Performance Standards:**

1. No more than twenty-five (25) percent of the site area shall be covered by buildings.
2. Parking areas shall not be located within fifty (50) feet of a residential district or use.
3. All facilities shall be licensed by the Michigan Department of Public Health and shall conform to applicable state and federal laws.
4. The site shall be served by a major or minor thoroughfare.

**Section 17.23 Open Air Businesses**

Open air businesses shall include, but need not be limited to, the following: automobile, truck and boat sales, agricultural equipment sales, nursery, landscaping supplies, lumber yards, home and garden centers.

**A. Locational Requirements:** Open air businesses are permitted by special use permit in the Highway Service District.

**B. Site Requirements:**

1. The minimum frontage shall be two hundred (200) feet.
2. No loading activities shall be permitted within seventy-five (75) feet of any lot line abutting a residential land use.
3. All buildings shall be set back a minimum of fifty (50) feet from any lot line.
4. Ingress and egress to the facility shall be only from a major thoroughfare, or from an approved shared access drive to such thoroughfare.
5. No more than two (2) driveways onto a thoroughfare shall be permitted per site. Driveway approach width shall not exceed thirty-five (35) feet.

**C. Buffering Requirements:**

1. Trucking, outside storage, loading and dock areas shall be fenced and screened, pursuant to the requirements of Sections 14.05 E.
2. If the site is immediately adjacent to a residential district, it shall comply with the requirements of Section 6.13 C.
3. Storage yards associated with home and garden centers, lumberyards and nurseries shall be completely obscured from view from public streets.

**D. Performance Standards:**

1. The site shall be kept in a neat and orderly fashion.

2. Not more than fifty (50) percent of the parcel shall be covered by buildings and outdoor storage of materials and goods.
3. Storage or display of goods and materials shall not occur in the required yards.
4. Christmas tree sales associated with nurseries need not comply with the requirements of Section 6.06 E.
5. No public address system shall be audible from any abutting residential parcel.
6. All lighting shall be shielded from adjacent streets and residential districts.
7. All flammable liquids, solvents, cleaners, and other hazardous substances capable of contaminating groundwater shall be stored within the building and secondary containment measures shall be installed and utilized to prevent spilled materials from contacting the ground.
8. The storage of any soil, fertilizer, or similar loosely packaged materials shall be sufficiently contained to prevent any adverse effect on adjacent properties, water bodies, wetlands and drainage ways.
9. In the case of auto sales:
  - a. No vehicles that are inoperative shall be stored on the premises.
  - b. All repair, assembly, disassembly or maintenance of vehicles shall occur within a closed building except minor maintenance, including tire replacement, adding oil and wiper replacement.

- c. For facilities with new underground storage tanks, the site shall be three hundred (300) feet from any residential well, eight hundred (800) feet from a non-community public water well, and two thousand (2,000) feet from any public water well.
  
- D. All areas subject to vehicular use shall be paved with a durable dust-free surface, with appropriate bumper-guards where needed.

**Section 17.24 Private Recreational Facilities**

Such uses shall include, but need not be limited to, the following: community or institutional recreation centers and private clubs or lodges.

- A. **Locational Requirements:** Private recreational uses are permitted by special use permit in Rural Residential, Suburban Residential and Urban Residential Districts.
  
- B. **Site Requirements:**
  - 1. The site shall be located on a major thoroughfare.
  
  - 2. Minimum lot size shall be one (1) acre.
  
- C. **Buffering Requirements:** Shall comply with the requirements of Section 6.13.
  
- D. **Performance Standards:**
  - 1. Sites shall be periodically cleared of debris so that litter does not accumulate on adjacent properties.

**E. Site Conditions**

1. Central loudspeakers/paging systems are prohibited adjacent to residential property.
2. The intensity level of sounds shall not exceed seventy (70) decibels (dba) at the lot line of industrial uses, sixty-five (65) decibels at the lot line of commercial uses, and fifty-five (55) decibels (dba) at the common lot line when adjacent to residential uses and residential districts. The sound levels shall be measured with a type of audio output meter approved by the United States Bureau of Standards.
3. Whenever a swimming pool is to be provided, said pool shall conform to the requirements of Section 6.04.
4. The clubhouse design is to be of a residential character and exterior materials are to be primarily wood or brick.

**Section 17.25 Public Facilities**

**A. Locational Requirements:** Public facilities are permitted by special use permit in Rural Residential, Suburban Residential, Urban Residential, and Highway Service Districts. Public facilities include, but are not limited to, parks, administrative offices, fire and police facilities, libraries, museums, recreational centers, and storage areas for public equipment.

**B. Site Requirements:**

1. No building shall be closer than fifty (50) feet to any property or road right-of-way line.

2. No more than thirty (30) percent of the gross lot area shall be covered by buildings.
3. Lot area and width shall not be less than that specified for the district in which the proposed use would be located.
4. No building shall be erected to a height greater than that permitted in the district in which the proposed use is located.

**C. Buffering Requirements:**

1. Where mechanical equipment is located in the open air, it shall be screened from the surrounding residential area by suitable plant material and it shall be fenced with a chain link fence five (5) feet in height.
2. All buildings housing mechanical equipment shall be landscaped and maintained in accordance with the requirements of Section 6.13.

**D. Performance Standards:**

1. All buildings shall be harmonious in appearance with the surrounding area and shall be similar in design and appearance to other buildings on the same site development.
2. No adverse environmental conditions such as noise, air pollution, lighting or other disruptions result.
3. Outdoor storage areas shall be located a minimum of fifty (50) feet from any residentially zoned property.

4. Facilities shall provide off-street parking and passenger loading areas at least twenty-five (25) feet from residential lot lines.
5. Sites shall be periodically cleared of debris so that litter does not accumulate on adjacent properties.
6. Any sports fields shall be a minimum of one hundred (100) feet from any lot line and two hundred (200) feet from any dwelling.

**Section 17.26 Schools (Public, Private or Parochial)**

**A. Locational Requirements:**

1. Schools are permitted by special use permit in the Rural Residential, Suburban Residential, and Urban Residential Districts.
2. Ingress and egress to the site shall be only from a major thoroughfare.
3. A preferential location is one that would offer natural or man-made barriers or buffer zone that would lessen the effect of intrusion of the institution on adjoining uses.

**B. Site Requirements:**

1. The minimum lot or parcel size for schools shall be five (5) acres.
2. No more than twenty-five (25) percent of the site area shall be covered by buildings.

3. No more than sixty (60) percent of the site shall be covered with impervious surface. The remainder shall be suitably landscaped.
4. Service areas and facilities, and outdoor recreation facilities, shall not be located within one hundred (100) feet of a residential district or use.
5. Parking areas shall not be located within fifty (50) feet of a residential district or use.
6. Student drop-off and vehicular turn-around facilities shall be provided on the site so that vehicles will not interfere with traffic.
7. No parking shall be allowed within the minimum front yard setback of fifty (50) feet.
8. The principal building shall be no closer than seventy-five (75) feet from any lot line or right-of-way.

**C. Buffering Requirements:**

1. Parking areas shall be screened from surrounding residential areas by a wall or fence, in combination with suitable plant materials as specified in Section 6.13 of this ordinance.
2. All lighting shall be shielded away from public right-of-way and neighboring residential lots.

**D. Performance Standards:** All activities conducted on the site shall conform to county, state, and federal laws.

## **Section 17.27      Shooting Ranges (Rifle, Skeet, Trap, Pistol and Archery)**

- A.    **Locational Requirements:** Shooting ranges (rifle, skeet, trap, pistol and archery) are permitted by special use permit in the Rural Residential (RR) District.
1. The site shall be located on, or shall have principal access from, a major thoroughfare or county primary road.
  2. Outdoor shooting ranges shall have a minimum parcel size of eighty (80) acres with a minimum width of one thousand three hundred twenty (1,320) feet.
  3. Indoor shooting ranges shall have a minimum parcel size of two (2) acres with a minimum lot width of one hundred fifty (150) feet.
  4. If the proposed description of the indoor or outdoor shooting range indicates the potential for adverse impacts on adjacent properties, the Planning Commission and Township Board may require an increase in the minimum sizes and setbacks established for the proposed use in the zoning ordinance. Any increase in such minimum sizes shall be required as the result of the Planning Commission and Township Board requiring additional information to determine, and attempt to limit, the potential negative impact upon adjacent properties caused by noise, traffic, lights and other nuisance factors.
- B.    **Buffering Requirements:** Minimum front, side and rear yard setbacks shall be four hundred fifty (450) feet. Minimum setbacks may be increased by the Planning Commission or, if so warranted, by the design standards of the National Rifle Association.
- C.    **Performance Standards:**
1.    General

- a. All federal, state and county codes and ordinances in regard to firearms shall be strictly adhered to.
- b. A site plan for the range, whether indoor or outdoor, shall be submitted to the Planning Commission. The site plan shall clearly demonstrate that all applicable National Rifle Association range design standards and guidelines have been met. The design of the facility shall clearly show that safety of persons on and off the site is ensured. 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.
- c. The Township Planning Commission may have the County Sheriff review and comment on the site plan prior to submitting it to the Township Planning Commission.
- d. The intensity level of sounds shall not exceed seventy-five (75) decibels (dba) at the lot line of industrial uses, sixty-five (65) decibels at the lot line of commercial uses, and fifty-five (55) decibels at the common lot line when adjacent to residential uses and residential districts. The sound levels shall be measured with a type of audio output meter approved by the United States Bureau of Standards.
- e. Off-street parking shall be provided in the ratio of one (1) space for each three (3) users at capacity. Parking areas shall not be permitted within required setbacks. All parking areas shall be kept dust-free at all times so as not to become a nuisance to adjoining parcels.
- f. All parking areas shall be screened from view of an adjoining residential district or residential use by a greenbelt, obscuring fence, or a masonry wall, whichever is determined by the Planning Commission to be the most appropriate and effective.

## 2. Additional Requirements for Outdoor Shooting Ranges

- a. The operator shall submit with a site plan an environmental stewardship plan that outlines the measures that will be implemented to limit potential lead contamination of soil and water.

- b. A fence no less than eight (8) feet high shall be provided around the perimeter of the site. Such fence shall be either of a chain-link type or of board construction sufficient to assure that individuals will not unknowingly trespass on the property, particularly where firearms are being discharged. The fences shall have warning signs posted at intervals to be determined by the Planning Commission.
- c. The outside hours when shooting is permitted at a shooting range shall be limited to between the hours of 9:00 a.m. to dusk Monday through Saturday, and 12 noon to 6:00 p.m. on Sundays. The Planning Commission may apply more restrictive hours where protection for adjoining residents is necessary.
- d. Central loudspeakers/paging systems are prohibited.

## **Section 17.28      Stables (Commercial)**

**A.      Locational Requirements:** Commercial stables are permitted by special use permit in the Rural Residential District.

**B.      Site Requirements:**

- 1.      Commercial stables shall have a minimum lot size of ten (10) acres for the first seven (7) horses and an additional one-half (½) acre for each horse thereafter.
- 2.      Commercial stables shall provide off-street parking at a minimum of one parking space per two (2) animals, based on the number of horse stalls or maximum number of horses that can be accommodated in the stable.
- 3.      Stables may not be located in platted subdivisions on a lot less than ten (10) acres.

**C.      Buffering Requirements:**

1. Animals shall be confined in a suitably fenced area or paddock to prevent their approaching nearer than fifty (50) feet to any dwelling on adjacent premises.
2. A vegetative strip of at least fifty (50) feet wide shall be maintained between any animal holding area, manure pile, or manure application area and any surface water or wellhead. In areas with slopes of over five (5) percent, the Planning Commission may increase setbacks in order to minimize runoff, prevent erosion, and promote quick nutrient absorption.

**D. Performance Standards:**

1. All stables shall be operated in conformance with all applicable county, state and federal regulations.
2. All animals shall be maintained in a healthy condition and carefully handled.
3. The facility shall be constructed and maintained so that dust and drainage from the stable will not create a nuisance or hazard to adjoining property or uses.
4. Inspections of stables may be conducted at any time within reason by either the police authorities or by employees under the supervision of the Township Supervisor. A review of inspections shall be made prior to special use permit renewal.
5. Manure piles shall be stored, removed, and/or applied in accordance with Michigan Department of Agriculture GAAMPS, et. seq. and County Health Department regulations.

6. A shelter shall be provided for all horses, including a separate stall for each horse, which is at least ten (10) feet by ten (10) feet.
7. Stables, corrals, and piles of manure or feed shall not be located nearer than two hundred (200) feet to any lot line and one hundred and fifty (150) feet from any right-of-way line.
8. Enclosed riding arenas associated with commercial stables shall not exceed ten thousand (10,000) square feet in gross floor area on a minimum of a ten (10) acre site, except that an additional one thousand five hundred (1,500) square feet of floor area may be permitted for each additional full acre in a lot area, provided that no riding arena shall exceed fifteen thousand (15,000) square feet in gross floor area.
9. No living quarters shall be located in any arena building.
10. Special events for which a fee is paid, such as shows, exhibitions, and contests, shall only be permitted after a temporary zoning permit has been secured in accordance with Section 6.06 K.
11. The Planning Commission may limit the number of horses and prescribe the manner of keeping the animals as necessary to prevent offensive odors, the pollution of water supplies and/or the spread of infectious disease.

## **Section 17.29 Two-Family Dwellings**

- A. **Locational Requirements:** Two-family dwellings are permitted by special use permit in the Suburban Residential District. Two-family dwellings are permitted by right in the Urban Residential District subject to the requirements noted herein.

**B. Site Requirements:**

1. In the Suburban Residential District, the minimum lot size shall be one (1) acre and have a minimum frontage of one hundred fifty (150) feet. To provide for adequate space for residents of two-family dwellings in the Urban Residential District, the minimum lot size shall be thirty thousand (30,000) square feet and have a minimum frontage of one hundred thirty-five (135) feet.

2. **Minimum required yard shall be:**

a. **Front yard setback:** Thirty-five (35) feet. Provided, however, if a two-family dwelling has frontage along a collector street or major/minor thoroughfare, the required front yard shall be fifty (50) feet.

b. **Side yard setback:** Fifteen (15) feet.

c. **Rear yard setback:** Twenty-five (25) feet.

C. **Performance Standards:** The architecture of the dwelling shall be compatible with the existing or intended residential character of the neighborhood.

**Section 17.30 Veterinarian Clinics**

A. **Locational Requirements:** Veterinarian clinics are permitted in the Rural Residential District.

B. **Buffering Requirements:** Buildings where animals are kept, dog runs, paddocks and/or exercise areas shall not be located nearer than one hundred (100) feet to any adjacent residential district lot line or any adjacent building used by the general public and shall not be located in any required yard.

C. **Performance Standards:**

1. Uses permitted include medical treatment, retail sales and boarding. Animals included are dogs, cats and similar household pets.
2. All activities must be confined within a fully-enclosed building that is soundproofed except for large animal paddock.
3. All principal use activities shall be conducted within a totally enclosed main building.
4. There shall be no storage or boarding of animals outside of the fully enclosed and soundproofed building.
5. No dogs shall be permitted in open run areas between the hours of 10:00 pm-7:00 am.
6. An adequate, enclosed method of refuse storage and disposal shall be maintained so that no public nuisance shall be created at any time.

### **Section 17.31 Community Wastewater Utility Systems**

The township recognizes that a community wastewater utility system may be in the best interests of the health, safety, and welfare of the township and the residents in some limited circumstances. However, the township requires assurance that, any community

wastewater utility system will be designed, constructed, operated, maintained, repaired and/or replaced in a manner that best serves and protects the health, safety, and welfare of the township and its residents.

This ordinance is enacted under the authority of the township's general police powers to protect the health, safety, and welfare of its residents and under the authority of Act No. 451 of the Public Acts of 1994, as amended and under the authority of the Zoning Enabling Act, Act No. 110 of 2006.

Community wastewater utility system as used in this section means a facility which is owned by a non-governmental entity and is designed, constructed, operated, and maintained to transport, collect, process, and treat residential sanitary sewage from more than one (1) dwelling unit. The system shall include any individual septic tanks, pumps, lines, and appurtenances serving each dwelling unit in addition to facilities, sewers, and appurtenances that serve more than one (1) dwelling unit.

A. **Procedure:** Community wastewater utility systems are reviewed and approved by the township. The township may request the Livingston County Drain Commissioner (LCDC) and/or the Livingston County Department of Public Health (LCDPH) to review and comment on the proposed community wastewater utility system. The township's special land use and site plan review process may proceed concurrently. However, the final site plan shall not be approved by the Township Board until a special use permit, as required by this section, has been approved by the Township Board.

B. **Application Requirements:**

1. The following items shall be submitted with the completed and signed application for a special land use permit:
  - a. A general location map showing the proposed systems and the development in relationship to prominent geographical features such as roads, rivers, lakes, and residential development(s).

- b. Legal description of the overall development and system site.
- c. A description of how the placement and operation of the system will minimize odor and noise dispersal to neighboring properties.
- d. Describe the compatibility of the proposed development with township and Livingston County planning. Provide a description of the development's impact on the township Comprehensive Plan for sanitary sewer service.
- e. Drawings prepared under the direction of a licensed Professional Surveyor and/or a certified Professional Engineer licensed to practice in the State of Michigan, accurate to a scale of no more than one hundred (100) feet to one (1) inch and showing the following information:
  - i. Elevations of the site mapped with a maximum contour interval of two (2) feet.
  - ii. All components of the proposed system, including but not limited to pump stations, tanks, treatment units, drainfields, and buildings.
  - iii. The location of soil borings or test pits. Soil boring logs shall also be attached along with a description of the general nature of the subsurface soils in the development and system, including the depth to groundwater, permeable strata, and confining layers.
  - iv. The means of vehicle access to any buildings.

- v. The method of storm water management with flow arrows showing the direction of storm water runoff and the points of discharge from the development.
  - vi. The location of existing and future structures, drains, and other utilities within the proposed development and five hundred (500) feet from the proposed development.
  - vii. The location of the nearest municipal sanitary sewer within five (5) miles of the proposed development.
  - viii. The location of surface water, wetlands, and floodplains within five hundred (500) feet of the proposed development.
  - ix. Any proposed screening, buffering, or landscaping.
  - x. Adjacent land uses and zoning designations.
  - xi. The source of water supply for the proposed development and its isolation from the proposed treatment and disposal system, along with the general direction of groundwater flow.
  - xii. The location of all existing water supplies, wells or water mains within five hundred (500) feet of the proposed development boundary along with the direction of groundwater flow.
- f. Other information deemed necessary by the township to make the determination required by this ordinance.

2. The applicant shall provide the following documents and any supporting information before a special use permit is issued and the final site plan approved:
  - a. Information required by Section 3.2 of the township's General Code, Ordinance 07-01, *Community Wastewater Utility Systems*.
  - b. Livingston County Department of Public Health (LCDPH): Permit for the final disposal system and/or treatment systems, as applicable.
  - c. Michigan Department of Environmental Quality, Water Division (MDEQ): Part 41 Construction Permit.
  - d. MDEQ, Water Division, < 10,000 gallons/day: Part 22 Notification (R323.2211 a).
  - e. MDEQ, Water Division, 10,000 – 20,000 gallons/day: Part 22 Discharge Permit (R323.2216).
  - f. Livingston County Drain Commissioner: Soil Erosion Permit.
  - g. A list of all conditions placed on the subject community wastewater utility system as noted by the agencies listed in items a-f above.

**C. General Requirements:**

1. A community wastewater utility system shall serve only residential uses.
2. A community wastewater utility system proposed as part of a planned unit development (PUD) in the SR district may serve non-residential uses.

3. The minimum number of dwellings connected to a system shall be twenty (20).
4. The design of a system shall be limited to a maximum of ten thousand (10,000) gallons per day. Larger systems may be considered at the discretion of the township.
5. The system shall be designed according to the then Marion Township Engineering Standards and to permit the ultimate connection to a municipal sanitary sewer. Measures to accomplish this may include blind tees, plugs, stubs, and sleeves placed strategically to allow for future connection to a municipal system.
6. The system shall be designed so that all developable sites within the proposed development are connected to the system. The design engineer may submit a request to exclude a specified number of sites from connecting to the system and shall include specific reasons as to why these sites are not to be connected (i.e., MDEQ or LCDPH requirements).
7. The system shall be designed for a service life of at least twenty (20) years.
8. No construction or installation of a system shall be permitted between November 1 and April 15 without the written consent of the LCDC.
9. If a reserve field is required, it shall be fully prepared by the developer during the initial installation process.
10. A system shall be restricted to a single development project and shall not provide service to other properties and/or development projects located outside the original project description unless it is determined, in the sole discretion of the Township Board, the proposed development to be served

by the system provides a recognizable and material benefit to the community and/or provides long-term protection of natural resources and environmental features.

11. The area devoted to a system shall not be used to satisfy open space required by any other provisions of this ordinance.

**D. Locational Requirements:**

1. Community wastewater utility systems are permitted by special use permit in the RR, Rural Residential and SR, Suburban Residential districts.
2. Community wastewater utility systems shall not be allowed on unplatted or non site condominium land developments.
3. All above-ground and below-ground appurtenances associated with a system shall be located within the boundaries of the proposed development.
4. The point of discharge of a system shall be located a minimum of:
  - a. Fifteen hundred (1,500) feet from another approved discharge point.
  - b. Two hundred (200) feet from a wetland, or from the ordinary high-water mark of any body of water unless approved by MDEQ or LCDPH.
5. The following minimum setbacks shall apply to the final disposal area for both active and reserve areas and to all above-ground appurtenances associated with a system:

- a. Three hundred (300) feet from any property line shared with an adjacent property.

Note that the Planning Commission may increase any of the minimum distances noted in items 4 and 5 above should the Planning Commission find that there is reasonable potential that the system would become a nuisance to nearby residents or uses, as applicable.

6. The system shall be located on an area of land not encumbered by private easements.
7. No system may be placed within a 100-year floodplain.
8. In so much as is possible, a system shall be located in an isolated area of the residential development.
9. Community wastewater utility systems shall not be located within any required greenbelt.
10. Community wastewater utility systems shall be prohibited within the boundaries of the proposed water/sewer area as found in the township's Comprehensive Plan.
11. Community wastewater utility systems shall be strictly prohibited in areas served by municipal sewers unless it is determined, in the sole discretion of the Township Board, the proposed development to be served by the system provides a recognizable and material benefit to the community and/or provides long-term protection of natural resources and environmental features.

**E. Site Requirements:**

1. Unless otherwise required in this ordinance, the proposed system shall comply with all Site Development Requirements for the particular district in which it is located and all other applicable township requirements.

**F. Buffering Requirements:**

1. Buffering of the system shall comply with the requirements of Section 6.13.
2. The lot containing the treatment portion of the system shall be landscaped with a combination of trees, grass, and shrubs. The spacing and type of plant materials shall be consistent with the provisions of Section 6.13. The Planning Commission may require additional landscaping to ensure that the character of the development is maintained.
3. Above-ground appurtenances associated with the system shall be screened using a combination of but not limited to the following, landscaping, berms, decorative or solid fence, or masonry wall. At its discretion, the Planning Commission may require additional landscaping to screen any above-ground structure.

**G. Performance Standards:**

1. Routine service of the system shall occur during daylight hours.
2. In cases where immediate service is required, such service may occur at any time.
3. All vegetation and/or landscaping on the lot containing the treatment facility shall be maintained so as to preserve the character of the surrounding residential uses. This may include but is not limited to mowing and annual plantings.

4. All above-ground structures shall be tamper-proof.
5. The density of a residential development utilizing a community wastewater utility system shall not be increased over what is otherwise permitted by the zoning district in which it is located.

**H. Development Standards:**

1. All building and/or appurtenances associated with a system shall be harmonious in appearance with the surrounding structures in the development for which it is designed to service.
2. No adverse environmental conditions such as noise, air pollution, obnoxious odors, lighting or other nuisance shall be permitted.
3. Outdoor storage shall be expressly prohibited for any treatment facility.
4. Community wastewater utility treatment facility shall provide adequate off-street parking for operators as well as adequate loading/unloading space for service vehicles.
5. A single paved drive with a minimum width of twelve (12) feet is required to provide access to the treatment facility and shall take its access from an interior road of the development.

**Section 17.32 Home-based Business**

Home Occupation regulations are provided in Section 6.14. Home-based businesses are considered special uses and are therefore subject to the provisions of Article XVII, Special Use Permits, and other applicable provisions of the ordinance. A Special Use Permit, and any conditions attached thereto, may be approved by the Township Board if all the criteria listed are met.

A home-based business is an occupation, business, commercial activity, company or profession carried on by family members residing on the premises that is clearly

incidental and secondary to the principal single-family residential use and has one or more of the following characteristics and is not a farm operation as defined herein:

1. The business has one or more employees who do not reside on the premises, but who work on the premises or travel to the premises to pick up business vehicles or equipment for use off the premises.
2. The business has outside storage of materials or equipment solely related to the business within a designated and screened area; and/or
3. Has vehicles related solely to the home or business.

**Locational Requirements:** Home-based businesses are permitted by Special Use Permit in the Rural Residential and Suburban Residential Districts.

**Site Requirements:**

- A. A home-based business may be permitted in both the dwelling unit and accessory structure. The home-based business shall not occupy more than twenty-five (25%) percent of the total gross floor area of said dwelling including the basement; however, it may encompass the entire accessory structure. Accessory structures used for business purposes shall conform to Section 6.07 Accessory Buildings and Structures.
- B. The residential appearance of the dwelling shall not be altered in order to conduct the home-based business.
- C. The home-based business shall be clearly secondary and incidental to the use of the dwelling as a place of residence, and shall not result in a change to the essential character of the premises including both the dwelling and yard areas.
- D. All of the activities on the property related to equipment and vehicle repair, cleaning, painting and maintenance associated with the home-based business shall be carried on indoors.
- E. Storage and use of combustible, toxic or hazardous material associated with the home-based business shall be done in a manner in full compliance with all federal, state and other governmental requirements concerning the use, handling, transport, storage and disposal of any such materials.
- F. Solid or liquid refuse or waste or hazardous waste generated by the home-based business shall be safely and properly disposed of in a manner in full compliance

with all federal, state and other governmental requirements of any such materials.

- G. In no case will radioactive, medical, or biomedical chemicals or materials waste be received, used, processed or stored on the site of the home-based business.
- H. No equipment or process shall be used in such home-based business that creates noise, vibration, glare, fumes, odors or electrical interference detectable to the normal human senses off the subject site. In addition, in regard to electrical interference, no equipment or process shall be used that creates visual, audible, or noticeable interference in any radio or television receivers off the site or that causes fluctuation in line voltage off the site.
- I. The home-based business shall be conducted so it does not constitute a nuisance or annoyance to the residents of adjoining properties due to noise, smoke, odor, electrical disturbance or night lighting, or the creation of unreasonable traffic to the premises.
- J. A resident of the dwelling on the parcel shall be actively and personally engaged in and responsible for all home occupation operations. The number of non-resident employees who can be employed by a home-based business shall be regulated by the size of the parcel containing the business as follows:

<u>Minimum Parcel Size</u>	<u>Maximum Number of Non-Resident Employees</u>
Up to 6 acres	1
6 acres and less than 10 acres	2
10 acres and less than 12 acres	3
12 or more acres	4

The Planning Commission may recommend or the Township Board may, in its discretion, allow a greater number of non-resident employees than those shown in the table above, where the operator of the business can provide clear and convincing evidence that doing so will not interfere with the principal single-family residential use of the premises and also the surrounding area, and further, only where the non-resident employees travel to the premises to pick up business vehicles or equipment for use off the premises.

In the event the home-based business premises are split or otherwise reduced in acreage, the operator will immediately be limited to the number of non-resident employees allowed on the remaining home-based business premises as shown in the table above, unless the operator seeks a new Special Use Permit on the

remaining premises within 90 days of the split or reduction in acreage. In the new Special Use Permit, the Planning Commission may recommend or the Township Board may in its discretion reduce the number of non-resident employees allowed on the remaining premises.

- K. Outdoor storage of materials and equipment involved in the business is permitted provided it is adequately screened so it is not visible from adjoining roads and properties. Measures to screen such material or equipment are subject to the recommendation of the Planning Commission and approval of the Township Board and shall include, but are not limited to, one or more of the following: a solid fence no more than six feet in height; plantings that are at least five feet in height at planting and will provide an adequate year-round screen; the topography of the site; existing vegetation on the site; or the screening is provided by existing buildings.
- L. The home-based business shall comply with all applicable federal, state and local laws, including, but not limited to, laws regarding licensing, occupational health and safety, and the environment.
- M. Home-based business approval is not transferable with the sale, rental or lease of the dwelling unit.
- N. Home-based businesses are allowed signage. See Article XV Signage.
- O. Visitors, customers and deliveries shall not exceed a total of twelve (12) during a single day, 7am – 7pm. The Planning Commission may recommend or the Township Board may modify this standard in the case where the Planning Commission or the Township Board determines that the operation of the home-based business will unreasonably interfere with the use and enjoyment of nearby properties and/or undermine the intended character of the area. No traffic shall be generated by the home-based business in volumes in excess of that which is normally associated with a single-family dwelling, and such traffic shall be limited to passenger vehicles, delivery vans, and similarly-sized vehicles. The Township Board may relax this requirement upon a finding that the allowance of a specified increase in traffic, including truck traffic, will not undermine the public safety and welfare based on such factors as the size of the parcel, the proximity of nearby residences, and road and dust conditions, nor unreasonably interfere with the use and enjoyment of nearby properties and/or undermine the intended character of the area. Nothing in this subsection shall be interpreted to allow outdoor parking in excess of that regulated by subsection below.
- P. In no case shall more than eight (8) motor vehicles be temporarily or permanently parked or located outdoors, including vehicles owned or used by residents of the

dwelling and employees of the business. The Township Board may decrease the above standard in the case where the Township Board determines that, without such reduction in the standard, the operation of the home-based business will unreasonably interfere with the use and enjoyment of nearby properties and/or undermine the intended character of the area. The Township Board may require screening of parking areas to minimize negative impacts on neighboring properties.

**Performance Standards:** Prior to recommending approval, the Planning Commission shall determine that the proposed home-based business is not incompatible with existing land uses in the area and would not be detrimental to the safety or convenience of vehicular or pedestrian traffic.

A. For a home-based business, an informal site plan (does not need to comply with the requirements found in Article XVIII Site Plan Review) or plot plan must be submitted for review and recommendation by the Marion Township Planning Commission. The site plan shall be to scale and need only illustrate the following:

- 1) Owner's name, parcel identification (tax ID#) and address.
- 2) An 11 x 17-inch color aerial photograph of the site area and surrounding areas showing overlaying property lines with contour lines and the proposed site layout with dimensions. (available at Livingston County GIS).
- 3) Existing and proposed structures with dimensions indicating the location(s) and square footages to be occupied by the home-based business, subject property setbacks as well as distances from the proposed home-based business location on-site to adjacent property lines.
- 4) Location of driveways, off-street parking areas & delivery and storage areas.
- 5) Proposed landscaping/screening in association with any parking to minimize negative impacts on nearby properties,
- 6) The location, character, and dimensions of any structural additions or modifications to an existing dwelling or accessory structure to accommodate the home-based business.

B. In addition to the information required in this section and the site plan described above, the applicant shall submit a detailed description of the nature of the home-based business, which shall clearly specify the following minimum features:

- 1) A detailed description of the character of the home-based business including but not limited to the service or product offered and the typical daily schedule of activities of such business.
  - 2) The type and frequency of vehicular traffic to be generated by the home-based business. The maximum number of vehicles to be parked or otherwise located outdoors including vehicles owned or used by residents of the dwelling and employees of the home-based business.
  - 3) The number of full-time and part-time employees of the business and the frequency at which such employees will be present at the site.
- C. The Planning Commission may require additional information if it determines the character of the project, site or surrounding conditions necessitates further investigation, allowing it to make a sound decision on the application.
- D. Any approval of a home-based business, and any permit issued for such occupation, shall clearly delineate any conditions upon which such approval is granted including any conditions pertaining to the number of employees, outdoor parking of vehicles, and related operational features.

**Section 17.33 Agricultural-Based Tourism/Entertainment Activities (Agri-Business):**

**A. Location Requirements:** Agricultural-Based Tourism/Entertainment activities are permitted by Special Use Permit in the Rural Residential and Suburban Residential District.

**B. Site Requirements**

1. Agricultural-Based Tourism/Entertainment activities shall be operated on the same premises as the principal agricultural use by the property owner or farm operator and shall be clearly incidental to the principal permitted agricultural use on the property. The allowance and use of such structures and land shall not alter the zoning of land in the Rural Residential zoning district, and such use shall not be deemed a commercial activity for zoning purposes.
2. The applicant shall show the relationship of the agri-business use to the primary agricultural use on the site. The final decision as to the use being agri-based shall be made by the Board of Trustees, unless protected by the Michigan Right to Farm Act, PA 93 of 1981(as amended).
3. Floor Area. The total floor area above finished grade (one or two stories) of any agri-business facility falling into this category, including retail space, shall be no larger than 10,000 square feet. The facility may consist of more than one building. Underground space is not limited to, and may be in addition to, the 10,000 square feet of floor area provided that it is below pre-existing ground level and has no more than one loading dock exposed.

4. Pre-Existing Buildings. Building(s) built prior to this amendment may be used for an agri-business provided that the area dedicated to the agribusiness is limited to 10,000 square feet. The Zoning Board of Appeals may consider variances from setbacks for such a pre-existing building if it shall first be determined that such extension shall not be harmful to public health, safety, or welfare, particularly with regard to surrounding property interests.
5. Size Requirements. The Planning Commission shall have the discretion to alter the size requirements if deemed necessary due to the requirements of the particular use, site considerations, or the potential impacts on adjacent properties.
6. The agri-business facility shall be designed to co-exist with the surrounding rural and agricultural land uses. The design of the facility shall achieve the following objectives:
  - a. The facility and the site shall be designed in a manner that maintains the rural and agricultural character of the original property.
  - b. There shall be no adverse impacts on adjacent properties.
7. Exception. These limitations on facility size shall not apply to structures engaged solely in the agricultural use of the site and not involved in the business aspects of the use.
8. Public Events / Private Events. An applicant who desires to host these events shall indicate as such in their application. They shall indicate the types of events, the frequency and number per year, the number of persons expected, the hours and other information as required by the Planning Commission for the understanding of the request.
9. Approval. The Township Board shall approve a facility's ability to host events when the applicant has demonstrated the largest event desired by the facility can be handled without significant adverse impacts to adjacent neighbors or township facilities and services or otherwise creating a detriment to public health, safety, or welfare.

**C. Performance Standards:**

1. The site plan for the use shall demonstrate how the facility will provide for circulation, parking, sanitation, trash collection, and noise, potential traffic impacts created by the proposed use and other factors during the events.
2. Setback requirements. All structures related to the agri-business shall meet the setback requirements for the zoning district in which it is located.
3. The Planning Commission shall have the ability to alter some of the standards herein or to require higher standards as necessary to protect the rural character of the community.

4. Parking. Parking shall comply with the requirements of Article 14 - Off-street Parking and Loading. Provisions shall be made to allow cars to turn off the road right-of-way and park outside of the right-of-way. Parking lots in the Rural Residential districts are not required to be paved.
5. Signs. Signage shall comply with the requirements of Article 15.5 B – Farm Signs.
6. The duration of use (i.e., seasonal, annual, weekends, every day etc.)
7. Hours of operation.
8. The special land use approval may specify a maximum number of events per year, number of persons per event, and hours for events.
9. Relationship of agri-business use and proposed development to the overall size of the parcel.
10. Other potential impacts on the township or adjacent properties including but not limited to lighting, noise, dust, and drainage.
11. New Permit. In order to exceed the number of events approved by the Township Board or to host an event of increased intensity, the special use permit must be amended. Otherwise, a new permit is not required for each event.
12. All submittals may be reviewed by, including but not limited to, township's attorney, planner, engineer, state agencies, Howell Area Fire Authority, Livingston County Sheriff Department, Livingston County Building Department, Livingston County Drain Commissioner, Livingston County Department of Environmental Health, Livingston County Road Commission before a final site plan may be recommended for approval, approval with conditions, or denial by the Planning Commission. Final approval, approval with conditions and or denial will be made by the Board of Trustees.

#### **D. Buffering Requirements**

1. Buffering requirements per Section 6.13 if necessary.

### **Section 17.34 Outdoor Vehicle Storage**

- A. **Location Requirements:** Outdoor vehicle storage uses are permitted by Special Use Permit in the Highway Service District.
- B. **Site Requirements**

The minimum lot area shall be three (3) acres.

Site design and layout shall meet all applicable requirements and standards of Article VI: General Provisions, and Article XVIII: Site Plan Requirements

**C. Performance Standards**

1. All vehicle storage sites shall contain a permanent enclosed office use only building.
2. No vehicles shall be stored in the front yard.
3. All lighting shall be shielded from adjacent residentially used or zoned districts.
4. No repair or refinishing shall be done outdoors on the lot.
5. Motor homes, mobile homes, or other large vehicles over eight (8) feet in height shall not be parked or stored any nearer to the property line than the required minimum setback distance of the HS: Highway Service District.
6. All vehicles being stored on site must be operable and licensed to operate on the highways of the State of Michigan.
7. No person(s) shall live temporarily or permanently in any vehicle stored on site.

**D. Buffering Requirements**

1. The front yard shall be planted with trees, grass, and shrubs. The spacing and type of plant materials shall be consistent with the provisions of Section 6.13.
2. A solid fence, wall or earthen berm at least eight (8) feet in height shall be provided around the periphery of the site to screen said site from surrounding property. Such fence, wall or berm shall be of sound construction, painted or otherwise finished neatly and inconspicuously. Such fence, wall or berm shall be of permanent finish and construction. Dependent upon location, site angles, security or other factors, the fence, wall or berm may be reduced or modified by the Planning Commission.
3. Dependent on provided screening and buffering, required setbacks may be reduced or modified.

**Section 17.35 Utility-Scale Solar Energy Facilities**

- A. **Intent and Purpose:** The intent and purpose of this section is to establish standards for the siting, installation, operation, repair, decommissioning, and removal of Utility-Scale Solar Energy Facilities; establish the process for the reviewing and permitting of such facilities; protect the health, welfare, safety, and quality of life of the general public; ensure compatibility with land uses in the vicinity of the areas affected by such facilities; and comply with state law.
- B. **Locational Requirements:** Utility-Scale Solar Energy Facilities are subject to the locational requirements below:

1. Utility-Scale Solar Energy Facilities are permitted by special use permit in the SFO Solar Farm Overlay District only.
2. Spacing: Utility-Scale Solar Energy Facilities shall be at least two thousand five hundred (2,500) feet from any adjacent, existing Utility-Scale Solar Energy Facility. Project Description: A general description of the proposed project including a legal description of the property or properties on which the project would be located and an anticipated construction schedule.

**C. Site Requirements:** Utility-Scale Solar Energy Facility sites shall meet the site standards below:

1. Site Composition: The site may consist of a single participating property or multiple adjoining participating properties. All participating properties must have signed agreements to participate in the Utility-Scale Solar Energy Facility.
2. Lot Area: The site shall have a total net lot area of at least forty (40) acres and no more than one thousand (1,000) acres.
3. Access: Utility-Scale Solar Energy Facilities shall meet the access standards below:
  - a. Road or Easement: The site, all fenced compounds, and every solar array shall have direct access from a public road or an access easement with a maximum length of one thousand two hundred fifty (1,250) feet and a width of at least thirty-three (33) feet.
  - b. Access Drive Material: Access drives shall have a hard surface or material that can pack hard that is sufficient to support fire apparatus and provide access at all times of the year.
  - c. Access Drive Maintenance: Access drives must be maintained and kept accessible at all times. The applicant, owner, operator, and property owners shall be jointly and severally responsible for maintenance of the access roads.
  - d. Access Drive Design: Access drives shall be designed to reduce the impact on agricultural use of the land and the visual impact. Access drives shall not impede the natural flow of water.
  - e. Gates and Doors: All access gates and doors to the Utility-Scale Solar Energy Facility compounds and electrical equipment shall be lockable and kept secured at all times when service personnel are not present.
4. Setbacks: Solar panels, fenced compounds, and electrical equipment shall meet the setback standards below:
  - a. Access Drive Material: Access drives shall have a hard surface or material that can park hard that is sufficient to support fire apparatus and provide access at all times of the year.

- b. Fences and Improved Areas: All fences and improved areas shall comply with the applicable setback for the underlying zoning district in which it is located.
- c. Fenced Compounds: All structures and improved areas located within the fenced compound shall be at least thirty (30) feet from the fence line.
- d. Solar Energy Systems: Solar energy systems and related accessory structures shall meet the minimum setbacks in the table below:

<b>Setback from</b>	<b>Distance</b>
Non-participating property lines	100 feet
Occupied buildings on non-participating properties	500 feet
Occupied buildings on participating properties	500 feet
Lakes, rivers, creeks, and similar bodies of water and Wellhead Protection Areas	100 feet
Road rights-of-way	100 feet

- 5. Height: Solar panel components must not exceed a maximum height of twenty-five (25) feet above ground when the arrays are at full tilt.
- 6. Lighting: Lighting shall be limited to inverter or substation locations only and shall comply with 14.04 (E) Lighting.
- 7. Solar Arrays: Solar arrays within a Utility-Scale Solar Energy Facility shall meet the design standards below:
  - a. Consistent: All solar arrays within the facility shall be of the same appearance.
  - b. Good Condition: All solar arrays shall be maintained in good condition at all times, consistent with or better than industry standards.
  - c. Certification: Solar array components shall be approved by the Institute of Electrical and Electronics Engineers (IEEE), Solar Rating and Certification Corporation (SRCC), International Electrotechnical Commission (IEC), or other similar certification organization.
- 8. Wiring: All power transmission, communication, or other lines, wires, or conduits within a Utility-Scale Solar Energy Facility shall meet the standards below:
  - a. Stray Voltage: All wiring shall comply with all applicable safety and stray voltage standards. Stray voltage originating from a Utility-Scale Solar Energy Facility shall not be detected on any participating or non-participating properties.

- 1) Preconstruction Test: A preconstruction stray voltage test shall be conducted on all Michigan Department of Agriculture & Rural Development (MDARD) registered livestock facilities located within a one-mile radius of all participating properties. The tests shall be performed by an investigator approved by the township at the applicant's expense.
  - 2) Report: A report of the tests shall be provided to the township and the owners of all property included in the study area.
  - 3) Permission: The applicant shall seek written permission from property owners prior to conducting testing. Testing shall not be required on non-participating properties where the owners have refused to grant permission to conduct the testing. The owner of any participating property shall not refuse the stray voltage testing.
- b. Underground: Wiring shall be underground, except for power switchyards or the area within a fenced substation. When the township finds underground wiring is not feasible due to soil or water conditions, the above-ground lines, transformers, or conductors should follow any Avian Power Line Interaction Committee (APLIC, <http://www.aplic.org/>) guidelines to prevent avian mortality.
  - c. Depth: Wiring shall be located at a depth to prevent any damage from freezing or frost, to prevent interference with drain tiles, and at a depth that complies with current National Electrical Code standards.
  - d. Interference: Wiring shall be located and designed to not cause interference with wired or wireless communication systems.
  - e. Armoring: Concrete armoring techniques shall be used at every location where wiring crosses a county drain, watercourse, water line, or sewer line.
  - f. Marking: Permanent, visible markers or tracing wires shall be installed to indicate the location of wiring.
  - g. Drain Tiles: Wiring shall be located to minimize conflict with drain tiles.
  - h. All above-ground lines, transformers, or conductors should follow any Avian Power Line Interaction Committee (APLIC) guidelines to prevent avian mortality.
9. Drain Tiles: Drain tiles within the Utility-Scale Solar Energy Facility shall be preserved and maintained throughout the construction, operation, and restoration periods, as described below:
    - a. Initial Inspection: Before the start of construction, all existing drain tiles within the facility and within any disturbed areas must be inspected by robotic camera with the imagery submitted to the township for baseline documentation on tile conditions.

- b. Continuing Inspection: Drain tiles must be reinspected by robotic camera every three (3) years while the facility is in operation or when conditions indicate there may be damage to drain tiles with the imagery submitted to the township.
  - c. Repairs: Damaged drain tiles shall be repaired within sixty (60) days of discovery. The township shall be notified of any necessary repairs before the work commences and documentation of the repair work. Repairs necessary to address an emergency situation may be completed without prior notice to the township.
  - d. Inspection: The township reserves the right to have a township official or agent present at the time of repair of the drainage tile system.
  - e. A report of the inspection results detailing status of all drains within the project area will be provided to the township within thirty (30) days of completion of the physical inspection. These inspection reports may be shared with other township officials and agents.
10. Fire Suppression: A fire suppression system shall be provided that is specifically designed to immediately suppress and extinguish fires in any part of the Utility-Scale Solar Energy Facility, including the solar arrays, electrical equipment, and transformers.
- a. Documentation: Documentation shall be provided confirming the effectiveness of the fire suppression system and the results of a third-party independent inspection, as approved by the township, of the fire suppression system.
  - b. Fire Authority: The fire suppression system shall be reviewed and approved by the township's fire authority.
  - c. Annual Inspection: The fire suppression system shall be inspected and approved yearly by a third-party independent inspecting company that is approved by the township.
11. Groundcover: Utility-Scale Solar Energy Facilities shall include the installation of perennial ground cover vegetation that shall be maintained for the duration of operation until the site is decommissioned where appropriate within the site.
- a. PA 116 Lands: Land within the project area that is enrolled or bound by the Farmland Preservation Program must follow the Michigan Department of Agriculture and Rural Development (MDARD) Policy for Allowing Commercial Renewable Energy Development on PA 116 Lands.
  - b. Non-PA 116 Lands: Land within the project area that is not enrolled or bound by the Farmland Preservation Program must provide at least one (1) of the following types of dual-use ground cover to promote ecological benefits:
    - 1) Pollinators: Pollinator habitat with a score of at least seventy-six (76) on the Michigan Pollinator Habitat Planning Scorecard for Solar Sites ([www.pollinators.msu.edu](http://www.pollinators.msu.edu));
    - 2) Conservation Cover: Conservation cover focused on restoring native plants, grasses, or prairie with the aim of protecting specific species, such as

bird habitat, or providing specific ecosystem services, such as carbon sequestration or improving soil health;

- 3) Grazing: Incorporation of rotational livestock grazing and forage production as part of an overall vegetative maintenance plan; or
  - 4) Crops: Raising crops for food, fiber, or fuel and generating electricity within the site to maximize land use.
- c. Alternative Ground Cover: The township may approve or require alternative ground cover upon finding it is not feasible to provide ground cover
  - d. Ground Cover Nature: All ground cover must be native plants with substantial root systems to support soil. Turf grass is not permitted as ground cover.
  - e. Invasive and Noxious: Invasive species and noxious weeds are not permitted and must be removed in a timely manner.
12. Fencing: Utility-Scale Solar Energy Facility compounds shall be completely surrounded by a fence designed to prevent unauthorized access and to screen the facility.
- a. Height: The fence shall be at least seven (7) feet tall.
  - b. Fence Posts: Fence posts shall extend at least thirty-six (36) inches into the ground, and gate posts and corner posts shall have a concrete foundation.
  - c. Fence Type: The fence shall be a woven agricultural-style fence. The township may require or allow durable green opaque material to be integrated into the fence if necessary for buffering or screening.
  - d. Gate Access: Gates shall be provided at all access points, unless otherwise permitted or approved. Gates for vehicular access shall be approved by the Fire Authority.
  - e. Gate Type: Gates shall be the same height and constructed of the same material as the fencing. Access, such as Knox box, shall be provided for emergency responders.
  - f. Wildlife Considerations: The township may require or allow a fence design to allow for the passage of wildlife upon a finding that adequate access control and visual screening will be preserved.
  - g. Alternative Fencing: Alternate fencing may be approved by the township upon a finding that the alternative provides adequate access control and visual screening.
13. Signage: Advertising or non-project related graphics shall be prohibited. This exclusion does not apply to signs required by this ordinance.

**D. Buffering Requirements:** Utility-Scale Solar Energy Facilities shall provide buffering described below:

1. Vegetative Buffer: There shall be a landscape buffer at least twenty (20) feet wide along the exterior of any fenced compound, whenever existing natural vegetation does not otherwise reasonably obscure the fenced compound.
  - a. Design: The buffer shall have two (2) rows of staggered evergreen trees planted twelve (12) feet apart or less trunk-to-trunk. The two (2) rows shall be ten (10) feet apart. The township may consider an alternative landscape buffer, provided the alternative buffer provides adequate screening.
  - b. Vegetation Size: Plantings shall be at least eight (8) feet tall at time of planting, measured from the top of the root ball to the base of the leader, not including the height of the leader, and must be a species that can reasonably be expected to reach a height of ten (10) feet within three (3) growing seasons.
  - c. Maintenance: The trees may be trimmed but must maintain a height of at least eighteen (18) feet. Damaged or diseased trees shall be replaced at the next appropriate planting season.
  - d. Evergreen Species: Evergreen trees shall be Norway Spruce in the row closest to fence and Thuja Green Giant Arborvitae in the row away from the fence. The township may require or consider alternative evergreen species, provided the alternative species are more desirable due to disease or pest or more appropriate for the local conditions.
2. Buffer Maintenance: Good arboricultural techniques shall be followed with respect to vegetation, including, but not limited to, proper pruning, proper fertilizing, and proper mulching, so that the vegetation will reach maturity as soon as practical and will have maximum density in foliage. Dead or diseased vegetation shall be removed and must be replaced in a manner consistent with these standards at the next appropriate planting season.
  - a. The Utility-Scale Solar Energy Facility will be inspected on at least an annual basis to ensure compliance with the Buffer Maintenance provisions outlined above.
  - b. A confirmed violation of the Buffer Maintenance provision above must be addressed within thirty (30) days or the next planting season of the owner/operator of the Utility-Scale Solar Energy Facility with a proposed resolution of the complaint submitted to the township.

**E. Performance Standards:** Utility-Scale Solar Energy Facilities shall meet the performance standards below:

1. Compliance: Utility-Scale Solar Energy Facilities shall be designed, constructed, operated, and maintained in compliance with all applicable provisions of local, state, and federal laws and regulations and industry standards.
2. Sound: The sound generated by Utility-Scale Solar Energy Facilities must meet the sound standards of this ordinance and the additional standards below:

- a. Day Sound Level: The maximum sound level shall be forty (40) Dba Lmax, as measured at the project boundary and road rights-of-way between the hours of 7:00 am and 9:00 pm.
  - b. Night Sound Level: The maximum sound level shall be thirty-five (35) Dba Lmax, as measured at the project boundary and road rights-of-way between the hours of 9:00 pm and 7:00 am.
  - c. Pure Tone: If pure tones are produced, the maximum sound level shall be reduced by five (5) Dba.
  - d. Ambient Sound: If the ambient sound levels exceed these standards, the maximum sound level shall be the ambient sound level plus five (5) Dba.
  - e. Inverter Sound Screening: A sound barrier of a solid decorative masonry wall or evergreen tree berm, with trees spaced not less than ten (10) feet apart, must be constructed to reduce noise levels surrounding all inverters. Berms must be within ten (10) feet of all inverters and must be at least as tall as all inverters but cannot be more than three (3) feet taller than the height of the adjacent inverters.
  - f. Continued Compliance: The sound level by a Utility-Scale Solar Energy Facility must be inspected every three (3) years, at the operator's expense, by an auditory expert to ensure compliance with applicable sound standards.
3. Airport Impact: Utility-Scale Solar Energy Facilities must be reviewed using the current Solar Glare Hazard Analysis Tool (SGHAT) available through Sandia National Laboratories or a commercially-available equivalent. The SGHAT will be used to ensure that airports and those who use them will not be affected by unwanted visual or ocular impacts. The process is designed to save costs and increase public safety.
- a. Adverse Impacts: The study shall determine if there are potential adverse effects on any registered airfield within ten (10) miles of the project. Effects noted, but not exclusively, should include any possible decreased safety and utility.
  - b. Determination of No Hazard: Utility-Scale Solar Energy Facilities must obtain a Determination of No Hazard from the Federal Aviation Administration. A Determination of No Hazard does not eliminate the need for the SGHAT study, nor does it in any way eliminate the standard for glare on roadways or non-participating parcels.
  - c. Timing: The Determination of No Hazard must be obtained before breaking ground on any portion of the Utility-Scale Solar Energy Facility. A copy of the airport impact study must be submitted to the township.
  - d. Safety and Utility Impacts: Utility-Scale Solar Energy Facilities that impact safety or utility of any registered airfield shall not be permitted.
4. Reports: In addition to other reports identified in this ordinance, the owner or operator shall submit the following reports to the township during the operation of Utility-Scale Solar Energy Facilities.

- a. Annual Report: An annual report shall be provided to the zoning administrator showing continuity of operation.
  - b. Operation: A report shall be provided to the zoning administrator if the Utility-Scale Solar Energy Facility or any of its components are no longer being used.
  - c. Incident Report: Reports shall be submitted if there is a major incident at the Utility-Scale Solar Energy Facility that did or could have caused harm to life or property, including calls for service from emergency responders. The report shall identify the cause of the incident and corrective action to prevent future incidents of that nature.
5. Safety: Utility-Scale Solar Energy Facilities shall be subject to the safety standards below:
- a. Warning Signs: The manufacturers or installers identification and appropriate warning signs shall be posted on or near each solar array and electrical equipment in a clearly visible manner.
  - b. Fire Suppression and Data Sheets: Fire suppression plans and Safety Data Sheets shall be kept onsite and be accessible for emergency responders.
  - c. Safety Manual: An unredacted copy of the manufacturer's safety manual for each component of the Utility-Scale Solar Energy Facility, without distribution restraints, shall be provided before construction commences. These shall be kept at the Township Hall and other locations deemed necessary by the township or local first responders. The manual shall include standard details for an industrial site such as materials, chemicals, fire, access, and safe distances during a Utility-Scale Solar Energy Facility failure, processes in emergencies, etc.
6. Interference: Utility-Scale Solar Energy Facilities must not interfere with any radio, television, or other communication systems. The applicant or operator must resolve any known interference immediately and provide proof that the interference has been resolved within ninety (90) days.
7. Complaint Resolution: Utility-Scale Solar Energy Facilities shall provide a complaint resolution process, as described below:
- a. Signs: Signs with contact information to report complaints related to the Utility-Scale Solar Energy Facility shall be posted throughout the project area. Signs shall be posted before construction begins and maintained until decommissioning is complete.
  - b. Resolution Options: Any resolution shall include lawful and reasonable solutions consistent with this ordinance.
  - c. Contact: A twenty-four (24) hour toll-free number shall be established and maintained by the owner or operator to receive complaints. Additional reporting methods, such as postal mail or electronic mail, may also be used.

- d. Log: A log shall be kept by the owner or operator of all complaints received and documentation of the resolution. The log shall be available for review by township officials.
  - e. Notification: The zoning administrator shall receive notification of all complaints received. An annual report shall be submitted to the township that details all complaints received, the status of complaint resolution, and actions taken to resolve complaints.
  - f. Resolution Period: Complaints for hazardous conditions shall be resolved within twelve (12) hours or as soon as reasonably possible. Other complaints shall be resolved within ten (10) business days.
  - g. Adjudication: The operator or its assignees reserve the right to adjudicate any claims, including residential claims, in a court of competent jurisdiction.
8. Insurance and Performance Guarantees: Utility-Scale Solar Energy Facilities shall provide insurance and performance guarantees. These are in addition to other insurance or performance guarantees required by this ordinance or other entities.
- a. General Liability Insurance: Utility-Scale Solar Energy Facilities shall have and maintain general liability insurance of at least ten million dollars (\$10,000,000). The township may require a higher amount for larger projects and may allow for a lesser amount for smaller projects upon a finding that the alternate amount is more consistent with the likely risk.
  - b. General Maintenance Performance Guarantee: A General Maintenance Performance Guarantee shall be provided before construction commences to guarantee all aspects of this ordinance are met at all times during the construction and operation of the Utility-Scale Solar Energy Facility. At the time of the application, the applicant shall submit two (2) third-party contractor bids for construction of all fencing, landscaping, and drainage improvements associated with the Utility-Scale Solar Energy Facility, and the performance guarantee shall be the higher of the two (2) bids. The township may use the performance guarantee to repair any landscaping, fencing, drainage infrastructure (including drainage tiles), and/or to correct any ongoing violation of this ordinance in the event that the site improvements for the Utility-Scale Solar Energy Facility are not maintained or the Utility-Scale Solar Energy Facility fails to make operational changes to correct an operational violation.
  - c. Road Performance Guarantee: A road performance guarantee shall be provided before construction commences in a form acceptable to the township, such as: a) a surety bond from a surety listed as acceptable on the Federal Surety Bond circular 570 of the U.S. Department of Treasury; or b) an acceptable irrevocable letter of credit; or c) an escrow account established in a financial institution licensed in the State of Michigan. A construction surety bond shall not be accepted. The amount of the performance guarantee shall be at least one million two hundred fifty thousand dollars (\$1,250,000), but this amount may be increased if the third-party consultant determines the amount needed for road repairs is greater than this amount. The performance guarantee shall only be released, in whole or part, when the Township Board, in consultation with the

Livingston County Road Commission and Michigan Department of Transportation, as applicable, and the third-party inspector, determines that all required road work has been completed and approved by the affected road agencies. The township may waive or reduce the requirement for this performance guarantee if the road agencies collect a performance guarantee.

- d. **Complaint Inspection Escrow:** An escrow account, funded by the applicant, owner, or operator, to be used for investigation of complaints shall be established before construction commences. The escrow account shall be used by the township for investigation of complaints, including reasonable reimbursement of qualified third-party agents, for, but not limited to, glare, stray voltage, sound, and signal interference. The escrow account shall be kept with the township treasurer. The initial escrow account shall be in the amount of fifteen thousand dollars (\$15,000.) When the escrow account balance is below five thousand dollars (\$5,000), the township shall notify the responsible party, who must replenish the escrow account to the amount of fifteen thousand dollars (\$15,000) within a period of forty-five (45) calendar days.
9. **Dust Control:** Reasonable dust control measures shall be taken during construction, operation, and decommissioning.
  10. **Plants and Grasses:** Plants or grasses not part of the buffer area shall be maintained at a height of twelve (12) inches or less. The township may approve a taller height upon a finding that it will not result in a nuisance.
  11. **Wildlife: Utility-Scale Solar Energy Facilities** shall be designed, sited, and operated in a manner to minimize impact on wildlife.
    - a. **Wildlife Impact Analysis:** The applicant shall have a third-party qualified professional, acceptable to the township, conduct an analysis to identify and assess any potential impacts on wildlife and endangered species. At a minimum, the analysis shall include a thorough review of existing information regarding species and potential habitats in the vicinity of the project area. Where appropriate, surveys for bats, raptors, or general avian use shall be conducted. The analysis shall include the potential effects on species listed under the federal Endangered Species Act and Michigan's Endangered Species Protection Law.
    - b. **Adverse Impacts:** Appropriate measures shall be taken to minimize, eliminate, or mitigate adverse impacts identified in the analysis. The applicant shall identify and evaluate the significance of any net effects or concerns that will remain after mitigation efforts.
    - c. **Special Scrutiny:** Sites requiring special scrutiny include wildlife refuges, other areas where birds are highly concentrated, bat hibernacula, wooded ridge tops that attract wildlife, sited that are frequented by federally- or state-listed endangered species of birds and bats, significant bird migration pathways, and areas that have landscape features known to attract large numbers of raptors.
    - d. **US Fish and Wildlife Service:** The applicant shall follow all pre-construction and post-construction recommendations of the United States Fish and Wildlife Service.

- e. **Post-Construction Mortality Study:** A post-construction wildlife mortality study may be required for the proposed Utility-Scale Solar Energy Facility. If such a study is determined unnecessary by the owner, operator, or property owner, the reasons why such a study does not need to be conducted shall be submitted to the township. The company to complete the Post-Construction Mortality Study shall be jointly chosen by the township and property owner. The cost of the Post-Construction Mortality Study shall be paid for by the owner, operator, and property owner. The final report of the Post-Construction Mortality Study shall be submitted to the township within six (6) months of operation of the Utility-Scale Solar Energy Facility.
12. **Environmental: Utility-Scale Solar Energy Facilities shall be designed, sited, and operated to minimize impact on the environment.**
- a. **Environmental Impact Analysis:** The applicant shall have a third-party, qualified professional, acceptable to the township, conduct an analysis to identify and assess any potential impacts on the natural environment including, but not limited to, wetlands and other fragile ecosystems, historical and cultural sites, and antiquities.
  - b. **Adverse Impacts:** Appropriate measures shall be taken to minimize, eliminate, or mitigate adverse impacts identified in the analysis. The applicant shall identify and evaluate the significance of any net effects or concerns that will remain after mitigation efforts.
  - c. **Environmental Laws:** Utility-Scale Solar Energy Facilities shall comply with applicable parts of the Michigan Natural Resources and Environmental Protection Act (Act 451 of 1994, MCL 324.101 et seq.), Part 91 Soil Erosion and Sedimentation Control (MCL 324.9101 et. seq.), Part 301 Inland Lakes and Streams (MCL 324.30101 et seq.), Part 303 Wetlands (MCL 324.030301 et seq.), Part 323 Shoreland Protection and Management (MCL 324.32301 et seq.), Part 325 Great Lakes Submerged Lands (MCL 324.32501 et seq.), and Part 353 Sand Dunes Protection and Management (MCL 324.35301 et seq.)
  - d. **Containment System:** A containment system shall surround any transformers in case of hazardous waste or oil spills.
  - e. **Removal:** All solid and hazardous waste materials shall be promptly removed from the site and disposed of properly.
  - f. **Responsibility:** The Utility-Scale Solar Energy Facility owner, operator, and property owner shall be jointly and severally responsible for mitigating erosion, flooding, and all other environmental impacts resulting from the facility.
13. **Emergency Action Plan: Utility-Scale Solar Energy Facilities shall have an emergency action plan to identify actions to be taken in event of an emergency.**
- a. The Emergency Action Plan shall jointly be reviewed and approved by the Howell Fire Department and Livingston County Emergency Management Director before the operation of the Utility-Scale Solar Energy Facility can begin commercial

operation. The Emergency Action Plan shall be reviewed every three years by the Howell Fire Department and the Livingston County Emergency Management Director. All approvals or reviews of the Emergency Action Plan shall be provided to the Township Supervisor and Zoning Administrator. The cost for any review shall be the responsibility, jointly and severally, of the Utility-Scale Solar Facility owner or operator.

- b. Fire Suppression: The emergency action plan must include a fire suppression plan, including the technology to be used.
- c. Special Equipment and Training: The emergency action plan shall identify special equipment and training that is required for emergency response to the Utility-Scale Solar Energy Facility.
- d. The cost of purchasing the required special equipment for fire protection will be the responsibility, jointly and severally, of the owner and operator of the Utility-Scale Solar Energy Facility.
- e. Clean-up: The emergency action plan must include plans for immediate containment, cleanup and long-term aftermath efforts following an emergency.
- f. Emergency Training: Before the Utility-Scale Solar Energy Facility is operational, the owner or operator of the Utility-Scale Solar Energy Facility must provide the necessary training, equipment, or agreements specified in the emergency action plan to the township, Howell Fire Department, Livingston County Emergency Response Director, or any other emergency personnel at the local, state, or federal level. All training must be consistent with current industry standards.
- g. The cost of the required training for the fire protection personnel shall be the responsibility, jointly and severally, of the owner and operator of the Utility-Scale Solar Energy Facility.
- h. Once a year, a fire suppression training shall be held with the cost of such training being the responsibility, jointly and severally, of the owner and operator of the Utility-Scale Solar Energy Facility.
- i. Public Record: The Emergency Action Plan will be a public record. Copies of the most up-to-date Emergency Action Plan shall be maintained at all times at the Utility-Scale Solar Energy Facility, the Marion Township Hall, the Howell Fire Department substation located at the Marion Township Hall, and at the office of the Livingston County Emergency Response Director. This plan shall be available for public inspection if requested.

**F. General Provisions:** Utility-Scale Solar Energy Facilities shall be subject to the general provisions below:

- 1. Damage Repair: The owner, operator, and property owner shall be jointly and severally responsible for making repairs to any public roads, drains, and infrastructure damaged by the construction of, use of, maintenance of, or damage to the Utility-Scale Solar Energy Facility.

2. **Mixed Facilities:** Utility-Scale Solar Energy Facilities may be co-located with other renewable energy facilities, such as Utility-Scale Battery Energy Storage Facilities or Utility-Scale Wind Energy Conversion Facilities. Review and approval are required for each use.
3. **As-Built:** The applicant shall submit an as-built drawing with dimensions relative to property lines of all new structures including solar panel units and buried cable both inside and outside fenced areas upon completion and before any power is supplied to the grid. The as-built drawing shall be a scale of 1" = 200 feet.
4. **Repowering or Modifications:** Any modifications of an approved site plan or special use permit that are made after the initial date of approval, including, but not limited to, an expansion of project, repowering, reconfiguration, or technological updates, shall require new site plan and special use permit applications. Any changes of the approved site plan or special use permit will be subject to this ordinance as it exists at the time of this new application.
5. **Transfer or Sale:** In the event of a transfer or sale of a Utility-Scale Solar Energy Facility, the new owner or operator must notify the township within thirty (30) days, and the zoning administrator shall administratively amend the permit to name the new owner or operator. Upon transfer or sale, the cash bond shall be transferred to the new owner or operator and shall be maintained at all times, the estimated costs of decommissioning shall be resubmitted, and the security bond adjusted to account for the new estimate.

**G. Decommissioning, Abandonment, and Restoration:** Following the operational life or abandonment of a Utility-Scale Solar Energy Facility, the site shall be decommissioned and restored as outlined below:

1. **Decommissioning Plan:** The applicant shall have a third-party qualified professional, acceptable to the township, prepare a decommissioning plan. The decommissioning plan shall be written to provide security to the township for one hundred twenty-five percent (125%) of the cost to remove and dispose of all panels, wiring, and restoration of the land to its original conditions. The decommissioning security shall be paid in cash to the township.
  - a. **Anticipated Life:** The decommissioning plan shall describe the anticipated life span of the Utility-Scale Solar Energy Facility and its components.
  - b. **Decommissioning Costs:** The decommissioning plan shall provide a probable cost estimate for decommissioning, including current cost and cost at the time of decommissioning.
  - c. **How Paid:** The decommissioning plan shall provide a description of how decommissioning costs will be paid.
  - d. **Regular Updating:** The decommissioning plan shall be updated on a regular-period basis of at least once every three (3) years. Additional security may be required to account for increased anticipated decommissioning costs during the preceding three (3) years.

2. Abandonment: Utility-Scale Solar Energy Facilities or any components that are not operated for a continuous period of six (6) months shall be considered abandoned, whether or not there is an intent to continue the use, and shall be removed or restored to operation. An extension may be granted by the township upon finding that the delay does not create a hazardous condition and the applicant has demonstrated a good-faith effort to continue operation.
3. Damage: Any Utility-Scale Solar Energy Facility components that are damaged shall be replaced or removed within seven (7) days. An extension may be granted by the township upon finding that it is not feasible to replace or remove the component in that period and that the delay does not create a hazardous condition.
4. Unsafe: Any unsafe components shall be removed or made safe within a reasonable period as determined by the township.
5. Compaction Prevention: All abandonment and decommissioning work must be done when soil is dry or frozen to prevent compaction.
6. Chemical Analysis and Boring: A chemical analysis and boring of the soil, as recommended by the township engineer, shall be performed before any decommissioning work begins with the results compared to the baseline soil chemical analysis baseline test results obtained before construction of the Utility-Scale Solar Energy Facility.
  - a. Chemical Levels: All levels of any chemical entity found in the soil chemical analysis must be equal to or lower than the levels of all chemical entities determined in the baseline testing performed prior to construction. If a new chemical entity, either organic or inorganic compounds, is identified in the soil chemical analysis, its level must be below established federal and state government levels for hazardous materials in soils for that chemical entity.
  - b. Report: A report of the soil chemical analysis must be provided to the township within seven (7) days. If any chemical entity, organic or inorganic compounds, is above established federal and state government levels for hazardous materials in soils, the report must be submitted to the appropriate federal and state regulatory agencies within seven (7) days of receiving the testing report showing a violation.
  - c. Violation Resolution: Once a violation has been determined and finalized, a reclamation plan for the contaminated soil must be developed and implemented to remove the contaminated soil from the Utility-Scale Solar Energy Facility site. The reclamation plan must meet all federal and state regulations for the reclamation of a contaminated site. The plan must be approved by the township board and the township engineer. Once the contaminated soil has been removed and replaced with uncontaminated soil, a final soil chemical analysis shall be performed to confirm the Utility-Scale Solar Energy Facility site soils have been returned to its original state for levels of organic and inorganic compounds that existed before construction.
  - d. Cation Exchange Capacity: A Cation Exchange Capacity soil test shall also be required at the completion of the decommission process. The company to complete this study will be determined jointly by the township and the property

owner. The final report of this test shall be submitted to the township and property owner for review and comment.

- e. Violation Remediation: Any negative variations from the preconstruction soil testing must be remedied and the final results of the testing approved by the township engineer and the township board.
  7. Ground Restoration: The ground must be restored to its original topography and land must be restored to a depth of three (3) feet below grade within three hundred sixty-five (365) days of abandonment or decommissioning. An extension may be granted by the township if a good-faith effort has been demonstrated and any delay is not the result of actions or inaction of the operator. An alternative topography can be approved by the township as part of the original site plan review or later as part of decommissioning.
  8. Land Balancing: If land balancing is required, all top soil will be saved within the project site and spread evenly over balanced area.
  9. Township Action: The township may remove any abandoned or unsafe Utility-Scale Solar Energy Facility components that are not removed or restored within the allowed time. The owner, operator, and property owner shall be jointly and severally responsible for any costs.
  10. Attorney Costs: The owner, operator, and property owner shall be jointly and severally responsible for the payment of all attorney fees and other costs incurred by the township in the event that the township has to enforce removal.
  11. Vegetation: Disturbed land shall be revegetated at the next appropriate planting season.
  12. Disposal: It is the responsibility, jointly and severally, of the owner, operator, and property owner of the Utility-Scale Solar Energy Facility to remove all structures, equipment, and waste from the site and disposed of properly. All costs for this disposal of structures, equipment, and waste shall be the total responsibility, jointly and severally, of the Utility-Scale Solar Energy Facility owner, operator, and property owner.
  13. Compliance with the above provisions of Section G—Decommissioning, Abandonment, and Restoration, shall be determined by review of all actions, documents, and reports of said decommissioning by the Board of Trustees of Marion Township.
- H. **Application Materials:** Applicants for Utility-Scale Solar Energy Facilities must submit the following additional materials with the special use permit application. These materials are in addition to information required for site plan and special use permit applications.
1. Identification: The name and address in full of the applicant, developer, owner, operator, and property owners, a statement that the applicant is the owner involved in the application, and any additional contact information shall be submitted.
  2. Application Dating: Each application for a Utility-Scale Solar Energy Facility shall indicate the date the application is received by the township.
  3. Purchase Agreements or Leases: Copies of all purchase agreements or leases for all participating properties that confirm the applicant has the permission of the participating

property owners to apply for the necessary approvals and permits for construction and operation of a Utility-Scale Solar Energy Facility.

4. Project Description: A general description of the proposed project, including nameplate-generating capacity and an anticipated construction schedule shall be submitted.
5. Solar Arrays: A complete description of the proposed technology to include type of solar panel and system, maximum height, fixed mounted versus tracking, number of panels, and angles of orientation shall be submitted.
6. Conceptual Plan and Elevations: A graphical computer-generated depiction of how the Utility-Scale Solar Energy Facility will appear from all directions shall be submitted.
7. Documentation: A complete set of photos and video of the entire development area, including construction access roads, as it exists before the application date shall be submitted.
8. Operation: A description of operations, including anticipated regular and unscheduled maintenance and the hours of the day maintenance will take place shall be submitted.
9. Power Purchase Agreement: A copy of the power purchase agreement or other written agreement with an electric utility showing approval of an interconnection with the proposed Utility-Scale Solar Energy Facility shall be submitted.
10. Insurance: Proof of the general liability insurance to cover the Utility-Scale Solar Energy Facility, the township, and the participating property owners shall be submitted.
11. Certifications: Certification shall be submitted that the Utility-Scale Solar Energy Facility will comply with all applicable state and federal laws and regulations in effect at the time the application is submitted, including, but not limited to: Part 31, Water Resources Protection of the Natural Resources and Environmental Protection Act (MCL 324.3101 et. seq.); Part 91, Soil Erosion and Sedimentation Control (MCL 324.9101 et. seq.) and any corresponding county ordinances; Part 301, Inland Lakes and Streams (MCL 324.30101 et. seq.); Part 303, Wetlands (MCL 324.30301 et. seq.); and Part 365, Endangered Species Protection (MCL 324.36501 et seq.)
12. Farmland Preservation Approval: Utility-Scale Solar Energy Facilities with any participating properties that are enrolled in the Michigan Farmland Preservation program must provide confirmation of approval from the Michigan Department of Agriculture to locate the facility on the property.
13. Road Agencies: Proof of approval or conditional approval by any road agency from which the Utility-Scale Solar Energy Facility will have access or whose roads will be used as a construction or maintenance route shall be submitted.
14. Drain Commission: Proof of approval or conditional approval by the Livingston County Drain Commission for any Utility-Scale Solar Energy Facility that has participating properties with a county drain or propose improvements within a county drain easement.
15. Manufacturers' Safety Data Sheet(s): Documentation include the type and quantity of all materials used in the operation of all equipment shall be submitted.

16. Wildlife Impact: Copy of the wildlife impact analysis shall be submitted.
  17. Environmental Impact: Copy of the environmental impact analysis shall be submitted.
  18. Soil Chemical Analysis: A chemical analysis and borings including a Cation Exchange Capacity (CE) of the soil involved in the project must be completed as recommended by the township engineer.
  19. Complaint Resolution Protocol: Copy of complaint resolution protocol shall be submitted.
  20. Decommissioning Plan: Copy of the decommissioning plan shall be submitted.
  21. Emergency Action Plan: Copy of the Emergency Action plan shall be submitted.
  22. Indemnification: An attestation that the applicant, owner, operator, and property owners, jointly and severally, responsible will indemnify and hold the township harmless from any costs or liability arising from the approval, installation, construction, maintenance, use, repair, or removal of the Utility-Scale Solar Energy Facility, which is subject to the township's review and approval, shall be submitted.
  23. Right-to-Enter: Submission of an application for a Utility-Scale Solar Energy Facility grants the township and its agents the right to enter the facility and any participating property for inspection of the Utility-Scale Solar Energy Facility at any reasonable time. The township may hire a consultant to assist with any such inspections at a reasonable cost to be charged to the applicant, owner, or operator.
  24. Additional Information: Any additional information, studies, or documentation requested by the township or its agents that are deemed necessary to determine compliance with this ordinance and other applicable laws and regulations.
- I. **Utility-Scale Solar Energy Facilities under PA 233:** On or after November 29, 2024, once PA 233 of 2023 is in effect, the following provisions apply to any Utility-Scale Solar Energy Facility with a nameplate capacity of at least fifty (50) megawatts. These provisions below shall control to the extent that they conflict with other provisions in Article 17.35 Utility-Scale Solar Energy Facilities. This subsection does not apply if PA 233 of 2023 is repealed, enjoined, or otherwise not in effect. This subsection does not apply to Utility-Scale Solar Energy Facilities with a nameplate capacity of less than 50 megawatts. All provisions in Article 17.35 Utility-Scale Solar Energy Facilities that do not conflict with this subsection remain in full force and effect.
1. Setbacks: Utility-Scale Solar Energy Facilities must comply with the minimum setback requirements in the table below, with setback distances measured from the nearest edge of the perimeter fencing of the facility.

Setback Description	Setback Distance
Occupied community buildings and dwellings on nonparticipating properties	300 feet from the nearest point on the outer wall

Public road right-of-way	50 feet measured from the nearest edge of a public road right-of-way
Nonparticipating parties	50 feet measured from the nearest shared property line

2. Installation: Installation for the Utility-Scale Solar Energy Facilities must comply with the latest version of the National Electric Code as of November 29, 2024, or as subsequently amended.
3. Height: Solar panel components must not exceed a maximum height of twenty-five (25) feet above ground when the arrays are at full tilt.
4. Sound: Utility-Scale Solar Energy Facilities must not generate a maximum sound in excess of fifty-five (55) average hourly decibels as modeled at the nearest outer wall of the nearest dwelling located on an adjacent nonparticipating property. Decibel modeling shall use the A-weighted scale as designed by the American National Standards Institute.
5. Lighting: Utility-Scale Solar Energy Facilities must implement dark sky-friendly lighting solutions.
6. Environmental Regulations: Utility-Scale Solar Energy Facilities must comply with applicable state or federal environmental regulations.
7. Host Community Agreement: The applicant shall enter into a host community agreement with the township. The host community agreement shall require that, upon commencement of any operation, the Utility-Scale Solar Energy Facility owner must pay the township two thousand dollars (\$2,000) per megawatt of nameplate capacity. The payment shall be used as determined by the township for police, fire, public safety, or other infrastructure, or other projects as agreed to by the township and the applicant.
8. PA 233 Requirements: The Utility-Scale Solar Energy Facility shall be subject to the other applicable rules and regulations outlined in PA 233 of 2023 and by the Michigan Public Service Commission.
9. Applicant's Option: An applicant can elect at the time of application to have their application for a Utility-Scale Solar Energy Facility processed using the other provisions of Article 17.35 Utility-Scale Solar Energy Facilities, even if PA 233 of 2023 is in full effect.

### **Section 17.36 Data Processing Facility**

The intent and purpose of this data processing facility section is to establish guidelines and safeguards for the collection, storage, and use of data within our rural community. By implementing these standards, we aim to protect the privacy of our residents, ensure data security, and foster trust and transparency in data-driven practices.

Data Processing Facilities are considered special uses and are therefore subject to the provisions of Article XVI, Special Use Permits, and other applicable provisions of the ordinance. A Special Use Permit, and any conditions attached thereto, may be approved by the township board if all the criteria listed hereof are met.

- A. **Locational Requirements:** Data Processing Facilities are permitted in the Light Industrial Districts with a minimum lot size of four (4) acres.
- B. **Performance Standards:**
  - 1. Data Processing Facilities are considered a principal use and shall be the only principal use on a property at any one time.
  - 2. At all times, sound levels at the property boundary may not exceed thirty (30) dB(A).
  - 3. A fence shall be installed around the perimeter with a minimum height of six (6) feet.
  - 4. Additional screening, such as a vegetative buffer, may be required at the discretion of the Planning Commission, per standards in Section 6.13.

### **Section 17.37 Utility-Scale Wind Energy Conversion Facilities**

- A. **Intent and Purpose:** The intent and purpose of this section is to establish standards for the siting, installation, operation, repair, decommissioning, and removal of Utility-Scale Wind Energy Conversion Facilities; establish the process for the reviewing and permitting of such facilities; protect the health, welfare, safety, and quality of life of the general public; ensure compatibility with land uses in the vicinity of the areas affected by such facilities; and comply with state law.
- B. **Locational Requirements:** Utility-Scale Wind Energy Conversion Facilities are permitted by special use permit in the SFO Solar Farm Overlay District only.
- C. **Site Requirements:** Utility-Scale Wind Energy Conversion Facility sites shall meet the site standards below:
  - 1. **Site Composition:** The site may consist of a single participating property or multiple adjoining participating properties. All participating properties must have signed agreements to participate in the Utility-Scale Wind Energy Conversion Facility.
  - 2. **Lot Area:** The site shall have a total net lot area of at least fifty (50) acres and no more than one thousand (1,000) acres.
  - 3. **Access:** Utility-Scale Wind Energy Conversion Facilities shall meet the access standards below:
    - a. **Road or Easement:** The site, all fenced compounds, and every wind turbine shall have direct access from a public road or an access easement with a maximum length of one thousand two hundred fifty (1,250) feet and a width of at least thirty-three (33) feet.

- b. Access Drive Material: Access drives shall have a hard surface or material that can pack hard that is sufficient to support fire apparatus and provide access at all times of the year.
  - c. Access Drive Maintenance: Access drives must be maintained and kept accessible at all times. The applicant, owner, operator, and property owners shall be jointly and severally responsible for maintenance of the access roads.
  - d. Access Drive Design: Access drives shall be designed to reduce the impact on agricultural use of the land and the visual impact. Access drives shall not impede the natural flow of water.
  - e. Gates and Doors: All access gates and doors to Utility-Scale Wind Energy Conversion Facility compounds, electrical equipment, and wind turbines shall be lockable and kept secured at all times when service personnel are not present.
  - f. Towers: Wind turbine shall not be climbable for a height of twenty (20) feet above the ground.
4. Setbacks: Wind turbines, fenced compounds, and electrical equipment shall meet the setback standards below:
- a. Measurement: Setbacks from wind turbines shall be measured horizontally from the center of the tower base.
  - b. Fences and Improved Areas: All fences and improved areas shall comply with the applicable setback for the underlying zoning district in which it is located.
  - c. Fenced Compounds: All structures and improved areas located within the fenced compound shall be at least thirty (30) feet from the fence line.
  - d. Wind Turbines: Wind turbines shall meet the minimum setbacks in the table below:

<b>Setback from</b>	<b>Distance</b>
Non-participating property lines	2.5 times wind turbine height
Occupied buildings on non-participating properties	3 times wind turbine height
Occupied buildings on participating properties	1.5 times wind turbine height
Lakes, rivers, creeks, and similar bodies of water and Wellhead Protection Areas	1,250 feet
Adjacent wind turbine	1.5 times wind turbine height

Road rights-of-way	1.5 times wind turbine height
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5. Height: Wind turbines shall have a maximum finished height of three hundred (300) feet.
6. Lighting: Lighting for Utility-Scale Wind Energy System Facilities shall comply with Article 14.4 (E) Lighting and the standards below:
  - a. Safe Operation: Lighting of the facility is limited to the minimum light necessary for safe operation.
  - b. Federal Aviation Administration: Wind turbines shall only be illuminated to the minimum extent required by the Federal Aviation Administration.
  - c. Nature of Light: Wind turbines shall not have strobe or pulse lighting.
  - d. Synchronized: All wind turbine lighting shall be synchronized to illuminate at the same time.
  - e. Shielded: Wind turbine lighting shall be shielded to the maximum extent possible to reduce glare and visibility from the ground.
7. Wind Turbines: Wind turbines within a Utility-Scale Wind Energy System Facility shall meet the design standards below:
  - a. Consistent: All wind turbines within the facility shall be of the same appearance.
  - b. Monopole: All wind turbines shall be of a monopole design.
  - c. Appearance: All wind turbines must be painted a non-obtrusive, neutral color, such as beige, gray, or off-white, and must be non-reflective. The tower, nacelle, and blades must be the same color. Advertisements, graphics, or striping are not permitted on wind turbines.
  - d. Rotation: All wind turbine blades within a Utility-Scale Wind Energy Conversion Facility shall rotate in the same direction.
  - e. Good Condition: All wind turbines shall be maintained in good condition at all times, consistent with or better than industry standards.
  - f. Deicing: All wind turbines must be equipped with technology that automatically deices the turbine blades. The system must detect ice and heat the blades, such as through the use of built-in carbon heating mats or through the circulation of hot air. Turbine blades shall use stick-free surface coatings to the maximum extent practical.
  - g. Clearance: The swept area shall have a ground clearance of at least one hundred (100) feet and a clearance of at least one hundred (100) feet from any structure.

- h. Braking: All wind turbines must be equipped with both an automatic and a manual braking or equivalent device, capable of stopping the wind turbine's operation in high winds with or without supervisory control and data acquisition control. The automatic braking system must be effective during complete grid power failure when the wind turbine is unable to communicate with supervisory control and data acquisition control or receive power.
  - i. Certification: All wind turbines shall be approved by Underwriters Laboratories, Det Norske Veritas, Germanischer Lloyd Wind Energie, or an equivalent third party.
8. Wiring: All power transmission, communication, or other lines, wires, or conduits within a Utility-Scale Wind Energy Conversion Facility shall meet the standards below:
- a. Stray Voltage: All wiring shall comply with all applicable safety and stray voltage standards. Stray voltage originating from a Utility-Scale Wind Energy Conversion Facility shall not be detected on any participating or non-participating properties.
    - 1) Preconstruction Test: A preconstruction stray voltage test shall be conducted on all Michigan Department of Agriculture & Rural Development (MDARD) registered livestock facilities located within a one-mile radius of all participating properties. The tests shall be performed by an investigator approved by the township at the applicant's expense.
    - 2) Report: A report of the tests shall be provided to the township and the owners of all property included in the study area.
    - 3) Permission: The applicant shall seek written permission from property owners prior to conducting testing. Testing shall not be required on non-participating properties where the owners have refused to grant permission to conduct the testing. The owner of any participating property shall not refuse the stray voltage testing.
  - b. Underground: Wiring shall be underground, except for power switchyards or the area within a fenced substation. When the township finds underground wiring is not feasible due to soil or water conditions, the above-ground lines, transformers, or conductors should follow any Avian Power Line Interaction Committee (APLIC, <http://www.aplic.org/>) guidelines to prevent avian mortality.
  - c. Depth: Wiring shall be located at a depth to prevent any damage from freezing or frost, to prevent interference with drain tiles, and at a depth that complies with current National Electrical Code standards.
  - d. Interference: Wiring shall be located and designed to not cause interference with wired or wireless communication systems.
  - e. Armoring: Concrete armoring techniques shall be used at every location where wiring crosses a county drain, watercourse, water line, or sewer line.

- f. Marking: Permanent, visible markers or tracing wires shall be installed to indicate the location of wiring.
    - g. Drain Tiles: Wiring shall be located to minimize conflict with drain tiles.
- 9. Drain Tiles: Drain tiles within the Utility-Scale Wind Energy Conversion Facility shall be preserved and maintained throughout the construction, operation, and restoration periods, as described below:
  - a. Initial Inspection: Before the start of construction, all existing drain tiles within the facility and within any disturbed areas must be inspected by robotic camera with the imagery submitted to the township for baseline documentation on tile conditions.
  - b. Continuing Inspection: Drain tiles must be reinspected by robotic camera every three (3) years while the facility is in operation or when conditions indicate there may be damage to drain tiles with the imagery submitted to the township.
  - c. Repairs: Damaged drain tiles shall be repaired within sixty (60) days of discovery. The township shall be notified of any necessary repairs before the work commences and documentation of the repair work. Repairs necessary to address an emergency situation may be completed without prior notice to the township.
  - d. Inspection: The township reserves the right to have a township official or agent present at the time of repair of the drainage tile system.
  - e. A report of the inspection results detailing status of all drains within the project area will be provided to the township within thirty (30) days of completion of the physical inspection. These inspection reports may be shared with other township officials and agents.
- 10. Fire Suppression: A fire suppression system shall be provided that is specifically designed to immediately suppress and extinguish fires in any part of the Utility-Scale Wind Energy Conversion Facility, including the wind turbines, electrical equipment, and transformers.
  - a. Documentation: Documentation shall be provided confirming the effectiveness of the fire suppression system and the results of a third-party independent inspection, as approved by the township, of the fire suppression system.
  - b. Fire Authority: The fire suppression system shall be reviewed and approved by the township's fire authority.
  - c. Annual Inspection: The fire suppression system shall be inspected and approved yearly by a third-party independent inspecting company that is approved by the township.
- 11. Groundcover: Utility-Scale Wind Energy Conversion Facilities shall include the installation of perennial ground cover vegetation that shall be maintained for the duration of operation until the site is decommissioned where appropriate within the site.

- a. PA 116 Lands: Land within the project area that is enrolled or bound by the Farmland Preservation Program must follow the Michigan Department of Agriculture and Rural Development (MDARD) Policy for Allowing Commercial Renewable Energy Development on PA 116 Lands.
  - b. Non-PA 116 Lands: Land within the project area that is not enrolled or bound by the Farmland Preservation Program must provide at least one (1) of the following types of dual-use ground cover to promote ecological benefits:
    - 1) Pollinators: Pollinator habitat with a score of at least seventy-six (76) on the Michigan Pollinator Habitat Planning Scorecard for Solar Sites ([www.pollinators.msu.edu](http://www.pollinators.msu.edu));
    - 2) Conservation Cover: Conservation cover focused on restoring native plants, grasses, or prairie with the aim of protecting specific species, such as bird habitat, or providing specific ecosystem services, such as carbon sequestration or improving soil health;
    - 3) Grazing: Incorporation of rotational livestock grazing and forage production as part of an overall vegetative maintenance plan; or
    - 4) Crops: Raising crops for food, fiber, or fuel and generating electricity within the site to maximize land use.
  - c. Alternative Ground Cover: The township may approve or require alternative ground cover upon finding it is not feasible to provide ground cover as defined above.
  - d. Ground Cover Nature: All ground cover must be native plants with substantial root systems to support soil. Turf grass is not permitted as ground cover.
  - e. Invasive and Noxious: Invasive species and noxious weeds are not permitted and must be removed in a timely manner.
12. Fencing: Utility-Scale Wind Energy Conversion Facility compounds shall be completely surrounded by a fence designed to prevent unauthorized access and to screen the facility.
- a. Height: The fence shall be at least seven (7) feet tall.
  - b. Fence Posts: Fence posts shall extend at least thirty-six (36) inches into the ground, and gate posts and corner posts shall have a concrete foundation.
  - c. Fence Type: The fence shall be a woven agricultural-style fence. The township may require or allow durable green opaque material to be integrated into the fence if necessary for buffering or screening.
  - d. Gate Access: Gates shall be provided at all access points, unless otherwise permitted or approved. Gates for vehicular access shall be approved by the Fire Authority.

- e. Gate Type: Gates shall be the same height and constructed of the same material as the fencing. Access, such as Knox box, shall be provided for emergency responders.
- f. Wildlife Considerations: The township may require or allow a fence design to allow for the passage of wildlife upon a finding that adequate access control and visual screening will be preserved.
- g. Alternative Fencing: Alternate fencing may be approved by the township upon a finding that the alternative provides adequate access control and visual screening.

13. Signage: Advertising or non-project related graphics shall be prohibited. This exclusion does not apply to signs required by this ordinance.

**D. Buffering Requirements:** Utility-Scale Wind Energy Conversion Facilities shall provide buffering described below:

- 1. Vegetative Buffer: There shall be a landscape buffer at least twenty (20) feet wide along the exterior of any fenced compound, whenever existing natural vegetation does not otherwise reasonably obscure the fenced compound.
  - a. Design: The buffer shall have two (2) rows of staggered evergreen trees planted twelve (12) feet apart or less trunk-to-trunk. The two (2) rows shall be ten (10) feet apart. The township may consider an alternative landscape buffer, provided the alternative buffer provides adequate screening.
  - b. Vegetation Size: Plantings shall be at least eight (8) feet tall at time of planting, measured from the top of the root ball to the base of the leader, not including the height of the leader, and must be a species that can reasonably be expected to reach a height of ten (10) feet within three (3) growing seasons.
  - c. Maintenance: The trees may be trimmed but must maintain a height of at least eighteen (18) feet. Damaged or diseased trees shall be replaced at the next appropriate planting season.
  - d. Evergreen Species: Evergreen trees shall be Norway Spruce in the row closest to fence and Thuja Green Giant Arborvitae in the row away from the fence. The township may require or consider alternative evergreen species, provided the alternative species are more desirable due to disease or pest or more appropriate for the local conditions.
- 2. Buffer Maintenance: Good arboricultural techniques shall be followed with respect to vegetation, including, but not limited to, proper pruning, proper fertilizing, and proper mulching, so that the vegetation will reach maturity as soon as practical and will have maximum density in foliage. Dead or diseased vegetation shall be removed and must be replaced in a manner consistent with these standards at the next appropriate planting season.

- a. The Utility-Scale Wind Energy Conversion Facility will be inspected on at least an annual basis to ensure compliance with the Buffer Maintenance provisions outlined above.
- b. A confirmed violation of the Buffer Maintenance provision above must be addressed within thirty (30) days of the owner/operator of the Utility-Scale Wind Energy Conversion Facility with a proposed resolution of the complaint submitted to the township.

**E. Performance Standards:** Utility-Scale Wind Energy Conversion Facilities shall meet the performance standards below:

1. Compliance: Utility-Scale Wind Energy Conversion Facilities shall be designed, constructed, operated, and maintained in compliance with all applicable provisions of local, state, and federal laws and regulations and industry standards.
2. Sound: The sound generated by Utility-Scale Wind Energy Conversion Facilities must meet the sound standards of this ordinance and the additional standards below:
  - a. Day Sound Level: The maximum sound level shall be forty (40) Dba Lmax, as measured at the project boundary and road rights-of-way between the hours of 7:00 am and 9:00 pm.
  - b. Night Sound Level: The maximum sound level shall be thirty-five (35) Dba Lmax, as measured at the project boundary and road rights-of-way between the hours of 9:00 pm and 7:00 am.
  - c. Pure Tone: If pure tones are produced, the maximum sound level shall be reduced by five (5) Dba.
  - d. Ambient Sound: If the ambient sound levels exceed these standards, the maximum sound level shall be the ambient sound level plus five (5) Dba.
  - e. Inverter Sound Screening: A sound barrier of a solid decorative masonry wall or evergreen tree berm, with trees spaced not less than ten (10) feet apart, must be constructed to reduce noise levels surrounding all inverters. Berms must be within ten (10) feet of all inverters and must be at least as tall as all inverters but cannot be more than three (3) feet taller than the height of the adjacent inverters.
  - f. Continued Compliance: The sound level by a Utility-Scale Wind Energy Conversion Facility must be inspected every three (3) years, at the operator's expense, by an auditory expert to ensure compliance with applicable sound standards.
3. Flicker and Glint: Reasonable design and operation shall be used to minimize or mitigate flicker and blade glint impacts on non-participating habitable buildings, public roads, and all road intersections.
4. Airport Impact: Utility-Scale Wind Energy Conversion Facilities shall not create hazardous conditions for airports.

- a. Adverse Impacts: The study shall determine if there are potential adverse effects on any registered airfield within ten (10) miles of the project. Effects noted, but not exclusively, should include any possible decreased safety and utility.
  - b. Determination of No Hazard: Utility-Scale Wind Energy Conversion Facilities must obtain a Determination of No Hazard from the Federal Aviation Administration.
  - c. Timing: The Determination of No Hazard must be obtained before breaking ground on any portion of the Utility-Scale Wind Energy Conversion Facility. An airport impact study must be submitted to the township.
  - d. Safety and Utility Impacts: Utility-Scale Wind Energy Conversion Facilities that impact safety or utility of any registered airfield shall not be permitted.
5. Reports: In addition to other reports identified in this ordinance, the owner or operator shall submit the following reports to the township during the operation of Utility-Scale Wind Energy Conversion Facilities.
- a. Annual Report: An annual report shall be provided to the zoning administrator showing continuity of operation.
  - b. Operation: A report shall be provided to the zoning administrator if the Utility-Scale Wind Energy Conversion Facility or any of its components are no longer being used.
  - c. Incident Report: Reports shall be submitted if there is a major incident at the Utility-Scale Wind Energy Conversion Facility that did or could have caused harm to life or property, including calls for service from emergency responders. The report shall identify the cause of the incident and corrective action to prevent future incidents of that nature.
6. Safety: Utility-Scale Wind Energy Conversion Facilities shall be subject to the safety standards below:
- a. Warning Signs: The manufacturer's or installer's identification and appropriate warning signs shall be posted on or near each wind turbine unit in a clearly visible manner.
  - b. Fire Suppression and Data Sheets: Fire suppression plans and Safety Data Sheets shall be kept onsite and be accessible for emergency responders.
  - c. Safety Manual: An unredacted copy of the manufacturer's safety manual for each component of the Utility-Scale Wind Energy Conversion Facility, without distribution restraints, shall be provided before construction commences. These shall be kept at the Township Hall and other locations deemed necessary by the township or local first responders. The manual shall include standard details for an industrial site such as materials, chemicals, fire, access, and safe distances during a Utility-Scale Wind Energy Conversion Facility failure, processes in emergencies, etc.

7. Interference: Utility-Scale Wind Energy Conversion Facilities must not interfere with any radio, television, or other communication systems. The applicant or operator must resolve any known interference immediately and provide proof that the interference has been resolved within ninety (90) days.
8. Complaint Resolution: Utility-Scale Wind Energy Conversion Facilities shall provide a complaint resolution process, as described below:
  - a. Signs: Signs with contact information to report complaints related to the Utility-Scale Wind Energy Conversion Facility shall be posted throughout the project area. Signs shall be posted before construction begins and maintained until decommissioning is complete.
  - b. Resolution Options: Any resolution shall include lawful and reasonable solutions consistent with this ordinance.
  - c. Contact: A twenty-four (24) hour toll-free number shall be established and maintained by the owner or operator to receive complaints. Additional reporting methods, such as postal mail or electronic mail, may also be used.
  - d. Log: A log shall be kept by the owner or operator of all complaints received and documentation of the resolution. The log shall be available for review by township officials.
  - e. Notification: The township shall receive notification of all complaints received. An annual report shall be submitted to the township that details all complaints received, the status of complaint resolution, and actions taken to resolve complaints.
  - f. Resolution Period: Complaints for hazardous conditions shall be resolved within twelve (12) hours or as soon as reasonably possible. Other complaints shall be resolved within ten (10) business days.
  - g. Adjudication: The operator or its assignees reserve the right to adjudicate any claims, including residential claims, in a court of competent jurisdiction.
9. Insurance and Performance Guarantees: Utility-Scale Wind Energy Conversion Facilities shall provide insurance and performance guarantees. These are in addition to other insurance or performance guarantees required by this ordinance or other entities.
  - a. General Liability Insurance: Utility-Scale Wind Energy Conversion Facilities shall have and maintain general liability insurance of at least ten million dollars (\$10,000,000). The township may require a higher amount for larger projects and may allow for a lesser amount for smaller projects upon a finding that the alternate amount is more consistent with the likely risk.
  - b. General Maintenance Performance Guarantee: A General Maintenance Performance Guarantee shall be provided before construction commences to guarantee all aspects of this ordinance are met at all times during the construction and operation of the Utility-Scale Wind Energy Conversion Facility. At the time of the application, the applicant shall submit two (2) third-party

contractor bids for construction of all fencing, landscaping, and drainage improvements associated with the Utility-Scale Wind Energy Conversion Facility, and the performance guarantee shall be the higher of the two (2) bids. The township may use the performance guarantee to repair any landscaping, fencing, drainage infrastructure (including drainage tiles), and/or to correct any ongoing violation of this ordinance in the event that the site improvements for the Utility-Scale Wind Energy Conversion Facility are not maintained or the Utility-Scale Wind Energy Conversion Facility fails to make operational changes to correct an operational violation.

- c. Road Performance Guarantee: A road performance guarantee shall be provided before construction commences in a form acceptable to the township, such as: a) a surety bond from a surety listed as acceptable on the Federal Surety Bond circular 570 of the U.S. Department of Treasury; or b) an acceptable irrevocable letter of credit; or c) an escrow account established in a financial institution licensed in the State of Michigan. A construction surety bond shall not be accepted. The amount of the performance guarantee shall be at least one million two hundred fifty thousand dollars (\$1,250,000), but this amount may be increased if the third-party consultant determines the amount needed for road repairs is greater than this amount. The performance guarantee shall only be released, in whole or part, when the Township Board, in consultation with the Livingston County Road Commission and Michigan Department of Transportation, as applicable, and the third-party inspector, determines that all required road work has been completed and approved by the affected road agencies. The township may waive or reduce the requirement for this performance guarantee if the road agencies collect a performance guarantee.
  - d. Complaint Inspection Escrow: An escrow account, funded by the applicant, owner, or operator, to be used for investigation of complaints shall be established before construction commences. The escrow account shall be used by the township for investigation of complaints, including reasonable reimbursement of qualified third-party agents, for, but not limited to, glare, stray voltage, sound, and signal interference. The escrow account shall be kept with the township treasurer. The initial escrow account shall be in the amount of fifteen thousand dollars (\$15,000.) When the escrow account balance is below five thousand dollars (\$5,000), the township shall notify the responsible party, who must replenish the escrow account to the amount of fifteen thousand dollars (\$15,000) within a period of forty-five (45) calendar days.
10. Dust Control: Reasonable dust control measures shall be taken during construction, operation, and decommissioning.
11. Plants and Grasses: Plants or grasses not part of the buffer area shall be maintained at a height of twelve (12) inches or less. The township may approve a taller height upon a finding that it will not result in a nuisance.
12. Wildlife: Utility-Scale Wind Energy Conversion Facilities shall be designed, sited, and operated in a manner to minimize impact on wildlife.
- a. Wildlife Impact Analysis: The applicant shall have a third-party qualified professional, acceptable to the township, conduct an analysis to identify and

assess any potential impacts on wildlife and endangered species. At a minimum, the analysis shall include a thorough review of existing information regarding species and potential habitats in the vicinity of the project area. Where appropriate, surveys for bats, raptors, or general avian use shall be conducted. The analysis shall include the potential effects on species listed under the federal Endangered Species Act and Michigan's Endangered Species Protection Law.

- b. Adverse Impacts: Appropriate measures shall be taken to minimize, eliminate, or mitigate adverse impacts identified in the analysis. The applicant shall identify and evaluate the significance of any net effects or concerns that will remain after mitigation efforts.
  - c. Special Scrutiny: Sites requiring special scrutiny include wildlife refuges, other areas where birds are highly concentrated, bat hibernacula, wooded ridge tops that attract wildlife, sited that are frequented by federally- or state-listed endangered species of birds and bats, significant bird migration pathways, and areas that have landscape features known to attract large numbers of raptors.
  - d. US Fish and Wildlife Service: The applicant shall follow all pre-construction and post-construction recommendations of the United States Fish and Wildlife Service.
  - e. Post-Construction Mortality Study: A post-construction wildlife mortality study may be required for the proposed Utility-Scale Wind Energy Conversion Facility. If such a study is determined unnecessary by the owner, operator, or property owner, the reasons why such a study does not need to be conducted shall be submitted to the township. The company to complete the Post-Construction Mortality Study shall be jointly chosen by the township and property owner. The cost of the Post-Construction Mortality Study shall be paid for by the owner, operator, and property owner. The final report of the Post-Construction Mortality Study shall be submitted to the township prior to construction of the Utility-Scale Wind Energy Conversion Facility.
  - f. All above-ground lines, transformers, or conductors should follow any Avian Power Line Interaction Committee (APLIC, <http://www.aplic.org/>) guidelines to prevent avian mortality.
13. Environment: Utility-Scale Wind Energy Conversion Facilities shall be designed, sited, and operated to minimize impact on the environment.
- a. Environmental Impact Analysis: The applicant shall have a third-party, qualified professional, acceptable to the township, conduct an analysis to identify and assess any potential impacts on the natural environment including, but not limited to, wetlands and other fragile ecosystems, historical and cultural sites, and antiquities.
  - b. Adverse Impacts: Appropriate measures shall be taken to minimize, eliminate, or mitigate adverse impacts identified in the analysis. The applicant shall identify and evaluate the significance of any net effects or concerns that will remain after mitigation efforts.

- c. Environmental Laws: Utility-Scale Wind Energy Conversion Facilities shall comply with applicable parts of the Michigan Natural Resources and Environmental Protection Act (Act 451 of 1994, MCL 324.101 et seq.), Part 91 Soil Erosion and Sedimentation Control (MCL 324.9101 et seq.), Part 301 Inland Lakes and Streams (MCL 324.30101 et seq.), Part 303 Wetlands (MCL 324.030301 et seq.), Part 323 Shoreland Protection and Management (MCL 324.32301 et seq.), Part 325 Great Lakes Submerged Lands (MCL 324.32501 et seq.), and Part 353 Sand Dunes Protection and Management (MCL 324.35301 et seq.)
  - d. Containment System: A containment system shall surround any transformers in case of hazardous waste or oil spills.
  - e. Removal: All solid and hazardous waste materials shall be promptly removed from the site and disposed of properly.
  - f. Responsibility: The Utility-Scale Wind Energy Conversion Facility owner, operator, and property owner shall be jointly and severally responsible for mitigating erosion, flooding, and all other environmental impacts resulting from the facility.
14. Emergency Action Plan: Utility-Scale Wind Energy Conversion Facilities shall have an emergency action plan to identify actions to be taken in event of an emergency.
- a. The Emergency Action Plan shall jointly be reviewed and approved by the Howell Fire Department and Livingston County Emergency Management Director before the operation of the Utility-Scale Wind Energy Conversion Facility can begin commercial operation. The Emergency Action Plan shall be reviewed every three years by the Howell Fire Department and the Livingston County Emergency Management Director. All approvals or reviews of the Emergency Action Plan shall be provided to the township. The cost for any review shall be the responsibility, jointly and severally, of the Utility-Scale Wind Energy Conversion Facility owner or operator.
  - b. Fire Suppression: The emergency action plan must include a fire suppression plan, including the technology to be used.
  - c. Special Equipment and Training: The emergency action plan shall identify special equipment and training that is required for emergency response to the Utility-Scale Wind Energy Conversion Facility.
  - d. The cost of purchasing the required special equipment for fire protection will be the responsibility, jointly and severally, of the owner and operator of the Utility-Scale Wind Energy Conversion Facility.
  - e. Clean-up: The emergency action plan must include plans for immediate cleanup and long-term aftermath efforts following an emergency.
  - f. Emergency Training: Before the Utility-Scale Wind Energy Conversion Facility is operational, the owner or operator of the Utility-Scale Wind Energy Conversion Facility must provide the necessary training, equipment, or agreements specified

in the emergency action plan to the township, Howell Fire Department, Livingston County Emergency Response Director, or any other emergency personnel at the local, state, or federal level. All training must be consistent with current industry standards.

- g. The cost of the required training for the fire protection personnel shall be the responsibility, jointly and severally, of the owner and operator of the Utility-Scale Wind Energy Conversion Facility.
- h. Once a year, a fire suppression training shall be held with the cost of such training being the responsibility, jointly and severally, of the owner and operator of the Utility-Scale Wind Energy Conversion Facility.
- i. Public Record: The Emergency Action Plan will be a public record. Copies of the most up-to-date Emergency Action Plan shall be maintained at all times at the Utility-Scale Wind Energy Conversion Facility, the Marion Township Hall, the Howell Fire Department substation located at the Marion Township Hall, and at the office of the Livingston County Emergency Response Director. This plan shall be available for public inspection if requested.

**F. General Provisions:** Utility-Scale Wind Energy Conversion Facilities shall be subject to the general provisions below:

1. Damage Repair: The owner, operator, and property owner shall be jointly and severally responsible for making repairs to any public roads, drains, and infrastructure damaged by the construction of, use of, maintenance of, or damage to the Utility-Scale Wind Energy Conversion Facility.
2. Mixed Facilities: Utility-Scale Wind Energy Conversion Facilities may be co-located with other renewable energy facilities, such as Utility-Scale Battery Energy Storage Facilities or Utility-Scale Solar Energy Facilities. Review and approval are required for each use.
3. As-Builts: The applicant shall submit an as-built drawing with dimensions relative to property lines of all new structures including turbines and buried cable both inside and outside fenced areas upon completion and before any power is supplied to the grid. The as-built drawing shall be a scale of 1" = 200 feet.
4. Repowering or Modifications: Any modifications of an approved site plan or special use permit that are made after the initial date of approval, including, but not limited to, an expansion of project, repowering, reconfiguration, or technological updates, shall require new site plan and special use permit applications. Any changes of the approved site plan or special use permit will be subject to this ordinance as it exists at the time of this new application.
5. Transfer or Sale: In the event of a transfer or sale of a Utility-Scale Wind Energy Conversion Facility, the new owner or operator must notify the township within thirty (30) days, and the zoning administrator shall administratively amend the permit to name the new owner or operator. Upon transfer or sale, the cash bond shall be transferred to the new owner or operator and shall be maintained at all times, the estimated costs of decommissioning shall be resubmitted, and the security bond adjusted to account for the new estimate.

**G. Decommissioning, Abandonment, and Restoration:** Following the operational life or abandonment of a Utility-Scale Wind Energy Conversion Facility, the site shall be decommissioned and restored as outlined below:

1. Decommissioning Plan: The applicant shall have a third-party qualified professional, acceptable to the township, prepare a decommissioning plan. The decommissioning plan shall be written to provide security to the township for one hundred twenty-five percent (125%) of the cost to remove and dispose of all panels, wiring, and restoration of the land to its original conditions. The decommissioning security shall be paid in cash to the township.
  - a. Anticipated Life: The decommissioning plan shall describe the anticipated life span of the Utility-Scale Wind Energy Conversion Facility and its components.
  - b. Decommissioning Costs: The decommissioning plan shall provide a probable cost estimate for decommissioning, including current cost and cost at the time of decommissioning.
  - c. How Paid: The decommissioning plan shall provide a description of how decommissioning costs will be paid.
  - d. Regular Updating: The decommissioning plan shall be updated on a regular-period basis of at least once every three (3) years. Additional security may be required to account for increased anticipated decommissioning costs during the preceding three (3) years.
2. Abandonment: Utility-Scale Wind Energy Conversion Facilities or any components that are not operated for a continuous period of six (6) months shall be considered abandoned, whether or not there is an intent to continue the use, and shall be removed or restored to operation. An extension may be granted by the township upon finding that the delay does not create a hazardous condition and the applicant has demonstrated a good-faith effort to continue operation.
3. Damage: Any Utility-Scale Wind Energy Conversion Facility components that are damaged shall be replaced or removed within seven (7) days. An extension may be granted by the township upon finding that it is not feasible to replace or remove the component in that period and that the delay does not create a hazardous condition.
4. Unsafe: Any unsafe components shall be removed or made safe within a reasonable period as determined by the township.
5. Compaction Prevention: All abandonment and decommissioning work must be done when soil is dry or frozen to prevent compaction.
6. Chemical Analysis and Boring: A chemical analysis and boring of the soil, as recommended by the township engineer, shall be performed before any decommissioning work begins with the results compared to the baseline soil chemical analysis baseline test results obtained before construction of the Utility-Scale Wind Energy Conversion Facility.

- a. Chemical Levels: All levels of any chemical entity found in the soil chemical analysis must be equal to or lower than the levels of all chemical entities determined in the baseline testing performed prior to construction. If a new chemical entity, either organic or inorganic compounds, is identified in the soil chemical analysis, its level must be below established federal and state government levels for hazardous materials in soils for that chemical entity.
  - b. Report: A report of the soil chemical analysis must be provided to the township within seven (7) days. If any chemical entity, organic or inorganic compounds, is above established federal and state government levels for hazardous materials in soils, the report must be submitted to the appropriate federal and state regulatory agencies within seven (7) days of receiving the testing report showing a violation.
  - c. Violation Resolution: Once a violation has been determined and finalized, a reclamation plan for the contaminated soil must be developed and implemented to remove the contaminated soil from the Utility-Scale Wind Energy Conversion Facility site. The reclamation plan must meet all federal and state regulations for the reclamation of a contaminated site. The plan must be approved by the township board and the township engineer. Once the contaminated soil has been removed and replaced with uncontaminated soil, a final soil chemical analysis shall be performed to confirm the Utility-Scale Wind Energy Conversion Facility site soils have been returned to its original state for levels of organic and inorganic compounds that existed before construction.
  - d. Cation Exchange Capacity: A Cation Exchange Capacity soil test shall also be required at the completion of the decommission process. The company to complete this study will be determined jointly by the township and the property owner. The final report of this test shall be submitted to the township supervisor, zoning administrator, township engineer, and property owner for review and comment.
  - e. Violation Remediation: Any negative variations from the preconstruction soil testing must be remedied and the final results of the testing approved by the township engineer and the township board.
7. Ground Restoration: The ground must be restored to its original topography and land must be restored to a depth of three (3) feet below grade within three hundred sixty-five (365) days of abandonment or decommissioning. An extension may be granted by the township if a good-faith effort has been demonstrated and any delay is not the result of actions or inaction of the operator. An alternative topography can be approved by the township as part of the original site plan review or later as part of decommissioning.
  8. Land Balancing: If land balancing is required, all top soil will be saved within the project site and spread evenly over balanced area.
  9. Township Action: The township may remove any abandoned or unsafe Utility-Scale Wind Energy Conversion Facility components that are not removed or restored within the allowed time. The owner, operator, and property owner shall be jointly and severally responsible for any costs.

10. Attorney Costs: The owner, operator, and property owner shall be jointly and severally responsible for the payment of all attorney fees and other costs incurred by the township in the event that the township has to enforce removal.
11. Vegetation: Disturbed land shall be revegetated at the next appropriate planting season.
12. Disposal: It is the responsibility, jointly and severally, of the owner, operator, and property owner of the Utility-Scale Wind Energy Conversion Facility to remove all structures, equipment, and waste from the site and disposed of properly. All costs for this disposal of structures, equipment, and waste shall be the total responsibility, jointly and severally, of the Utility-Scale Wind Energy Conversion Facility owner, operator, and property owner.
13. Compliance with the above provisions of Section G—Decommissioning, Abandonment, and Restoration, shall be determined by review of all actions, documents, and reports of said decommissioning by the Board of Trustees of Marion Township.

H. **Application Materials:** Applicants for Utility-Scale Wind Energy Conversion Facilities must submit the following additional materials with the special use permit application. These materials are in addition to information required for site plan and special use permit applications.

1. Identification: The name and address in full of the applicant, developer, owner, operator, and property owners, a statement that the applicant is the owner involved in the application, and any additional contact information shall be submitted.
2. Application Dating: Each application for a Utility-Scale Wind Energy Conversion Facility shall indicate the date the application is received by the township.
3. Purchase Agreements or Leases: Copies of all purchase agreements or leases for all participating properties that confirm the applicant has the permission of the participating property owners to apply for the necessary approvals and permits for construction and operation of a Utility-Scale Wind Energy Conversion Facility.
4. Project Description: A general description of the proposed project, including nameplate-generating capacity and an anticipated construction schedule shall be submitted.
5. Wind Turbines and Equipment: A complete description of the proposed technology to be installed at the Wind Energy System Facility to include type of wind turbine and its manufacturer, electrical generation capacity of each wind turbine, total number of wind turbines to be installed, and average distance between each wind turbine shall be submitted.
6. Conceptual Plan and Elevations: A graphical computer-generated depiction of how the Utility-Scale Wind Energy Conversion Facility will appear from all directions shall be submitted.
7. Documentation: A complete set of photos and video of the entire development area, including construction access roads, as it exists before the application date shall be submitted.
8. Operation: A description of operations, including anticipated regular and unscheduled maintenance and the hours of the day maintenance will take place shall be submitted.

9. Power Purchase Agreement: A copy of the power purchase agreement or other written agreement with an electric utility showing approval of an interconnection with the proposed Utility-Scale Wind Energy Conversion Facility shall be submitted.
10. Insurance: Proof of the general liability insurance to cover the Utility-Scale Wind Energy Conversion Facility, the township, and the participating property owners shall be submitted.
11. Certifications: Certification shall be submitted that the Utility-Scale Wind Energy Conversion Facility will comply with all applicable state and federal laws and regulations in effect at the time the application is submitted, including, but not limited to: Part 31, Water Resources Protection of the Natural Resources and Environmental Protection Act (MCL 324.3101 et. seq.); Part 91, Soil Erosion and Sedimentation Control (MCL 324.9101 et. seq.) and any corresponding county ordinances; Part 301, Inland Lakes and Streams (MCL 324.30101 et. seq.); Part 303, Wetlands (MCL 324.30301 et. seq.); and Part 365, Endangered Species Protection (MCL 324.36501 et seq.)
12. Farmland Preservation Approval: Utility-Scale Wind Energy Conversion Facilities with any participating properties that are enrolled in the Michigan Farmland Preservation program must provide confirmation of approval from the Michigan Department of Agriculture to locate the facility on the property.
13. Road Agencies: Proof of approval or conditional approval by any road agency from which the Utility-Scale Wind Energy Conversion Facility will have access or whose roads will be used as a construction or maintenance route shall be submitted.
14. Drain Commission: Proof of approval or conditional approval by the Livingston County Drain Commission for any Utility-Scale Wind Energy Conversion Facility that has participating properties with a county drain or proposed improvements within a county drain easement.
15. Manufacturers' Safety Data Sheet(s): Documentation including the type and quantity of all materials used in the operation of all equipment shall be submitted.
16. Wildlife Impact: Copy of the wildlife impact analysis shall be submitted.
17. Environmental Impact: Copy of the environmental impact analysis shall be submitted.
18. Soil Chemical Analysis: A chemical analysis and borings including a Cation Exchange Capacity (CE) of the soil involved in the project must be completed as recommended by the township engineer.
19. Complaint Resolution Protocol: Copy of complaint resolution protocol shall be submitted.
20. Decommissioning Plan: Copy of the decommissioning plan shall be submitted.
21. Emergency Action Plan: Copy of the Emergency Action plan shall be submitted.
22. Indemnification: An attestation that the applicant, owner, operator, and property owners will indemnify and hold the township harmless from any costs or liability arising from the

approval, installation, construction, maintenance, use, repair, or removal of the Utility-Scale Wind Energy Conversion Facility, which is subject to the township’s review and approval, shall be submitted.

23. Right-to-Enter: Submission of an application for a Utility-Scale Wind Energy Conversion Facility grants the township and its agents the right to enter the facility and any participating property for inspection of the Utility-Scale Wind Energy Conversion Facility at any reasonable time. The township may hire a consultant to assist with any such inspections at a reasonable cost to be charged to the operator.

24. Additional Information: Any additional information, studies, or documentation requested by the township or its agents that are deemed necessary to determine compliance with this ordinance and other applicable laws and regulations.

I. **Utility-Scale Wind Energy Conversion Facilities under PA 233:** On or after November 29, 2024, once PA 233 of 2023 is in effect, the following provisions apply to any Utility-Scale Wind Energy Conversion Facilities with a nameplate capacity of at least one hundred (100) megawatts. These provisions below shall control to the extent that they conflict with other provisions in Article 17.37—Utility-Scale Wind Energy Conversion Facilities. This subsection does not apply if PA 233 of 2023 is repealed, enjoined, or otherwise not in effect. This subsection does not apply to Utility-Scale Wind Energy Conversion Facilities with a nameplate capacity of less than 100 megawatts. All provisions in Article 17.37--Utility-Scale Wind Energy Conversion Facilities that do not conflict with this subsection remain in full force and effect.

1. Setbacks: Utility-Scale Wind Energy Conversion Facilities must comply with the minimum setback requirements in the table below, with setback distances measured from the center of the base of the wind tower:

<b>Setback Description</b>	<b>Setback Distance</b>
Occupied community buildings and dwellings on nonparticipating properties	2.1 times the maximum wind turbine height (see definitions) to the nearest point on the outside wall of the structure
Residences and other structures on participating properties	1.1 times the maximum blade tip height to the nearest point on the outside wall of the structure
Nonparticipating parties	1.1 times and maximum blade tip height
Overhead communication and electric transmission, not including utility service lines to individual houses or outbuildings	1.1 times the maximum blade tip height to the center line of the easement containing the overhead line
Public road right-of-way	1.1 times the maximum blade tip height to the center line of the public road right-of-way

2. Shadow Flicker: Each wind tower must be sited such that any occupied community building or nonparticipating residence will not experience more than 30 hours per year of shadow flicker under planned operating conditions as indicated by industry-standard computer modeling.

3. Height: Each Utility-Scale Wind Energy Conversion Facility blade tip must not exceed the height allowed under the Determination of No Hazard to Air Navigation by the Federal Aviation Administration under 14 CFR part 77.
4. Radar Interference: The Utility-Scale Wind Energy Conversion Facility must meet any standards concerning radar interference, lighting (subject to subparagraph (5)), or other relevant issues as determined by the township.
5. Lighting: The Utility-Scale Wind Energy Conversion Facility must be equipped with a functioning light-mitigating technology. To allow proper conspicuity of a wind turbine at night during construction, a turbine may be lighted with temporary lighting until the permanent lighting configuration, including the light-mitigating technology, is implemented. The township may grant a temporary exemption from the requirements of this subparagraph if installation of appropriate light-mitigating technology is not feasible. A request for a temporary exemption must be in writing and state all of the following:
  - a. The purpose of the exemption.
  - b. The proposed length of the exemption.
  - c. A description of the light-mitigating technologies submitted to the Federal Aviation Administration.
  - d. The technical or economic reason a light-mitigating technology is not feasible.
  - e. Any other relevant information requested by the township.
6. Sound: Utility-Scale Wind Energy Conversion Facilities must not generate a maximum sound in excess of fifty-five (55) average hourly decibels as modeled at the nearest outer wall of the nearest dwelling located on an adjacent nonparticipating property. Decibel modeling shall use the A-weighted scale as designed by the American National Standards Institute.
7. Environmental Regulations: Utility-Scale Wind Energy Conversion Facilities must comply with applicable state or federal environmental regulations.
8. Host Community Agreement: The applicant shall enter into a host community agreement with the township. The host community agreement shall require that, upon commencement of any operation, the Utility-Scale Wind Energy Conversion Facility owner must pay the township two thousand dollars (\$2,000) per megawatt of nameplate capacity. The payment shall be used as determined by the township for police, fire, public safety, or other infrastructure, or other projects as agreed to by the township and the applicant.
9. PA 233 Requirements: The Utility-Scale Wind Energy Conversion Facility shall be subject to the other applicable rules and regulations outlined in PA 233 of 2023 and by the Michigan Public Service Commission.
10. Applicant's Option: An applicant can elect at the time of application to have their application for a Utility-Scale Wind Energy Conversion Facility processed using the other

provisions of Article 17.37--Utility-Scale Wind Energy Conversion Facilities, even if PA 233 of 2023 is in full effect.

## **Section 17.38 Utility-Scale Battery Energy Storage Facilities**

- A. **Intent and Purpose:** The intent and purpose of this section is to establish standards for the siting, installation, operation, repair, decommissioning, and removal of Utility-Scale Battery Energy Storage Facilities; establish the process for the reviewing and permitting of such facilities; protect the health, welfare, safety, and quality of life of the general public; ensure compatibility with land uses in the vicinity of the areas affected by such facilities; and comply with state law.
- B. **Locational Requirements:** Utility-Scale Battery Energy Storage Facilities are subject to the locational requirements below:
1. **Zoning Districts:** Utility-Scale Battery Energy Storage Facilities are permitted by special use permit in the SFO Solar Farm Overlay District only.
  2. **Spacing:** Utility-Scale Battery Energy Storage Facilities shall be at least two thousand five hundred (2,500) feet from any adjacent, existing Utility-Scale Battery Energy Storage Facility.
- C. **Site Requirements:** Utility-Scale Battery Energy Storage Facilities shall meet the site standards below:
1. **Site Composition:** The site may consist of a single participating property or multiple adjoining participating properties. All participating properties must have signed agreements to participate in the Utility-Scale Battery Energy Storage Facility.
  2. **Lot Area:** The site shall have a total net lot area of at least twenty (20) acres and no more than one thousand (1,000) acres.
  3. **Access:** Utility-Scale Battery Energy Storage Facilities shall meet the access standards below:
    - a. **Road or Easement:** The site, all fenced compounds, and every battery storage component shall have direct access from a public road or an access easement with a maximum length of one thousand two hundred fifty (1,250) feet and a width of at least thirty- three (33) feet.
    - b. **Access Drive Material:** Access drives shall have a hard surface or material that can pack hard that is sufficient to support fire apparatus and provide access at all times of the year.
    - c. **Access Drive Maintenance:** Access drives must be maintained and kept accessible at all times. The applicant, owner, operator, and property owners shall be jointly and severally responsible for maintenance of the access roads.

- d. Access Drive Design: Access drives shall be designed to reduce the impact on agricultural use of the land and the visual impact. Access drives shall not impede the natural flow of water.
  - e. Gates and Doors: All access gates and doors to Utility-Scale Battery Energy Storage Facility compounds and electrical equipment shall be lockable and kept secured at all times when service personnel are not present.
  - f. Compound Surface Material: Utility-Scale Battery Energy Storage Facility compounds shall have a hard surface or material that can park hard that is sufficient to support fire apparatus and provides access at all times of the year.
4. Setbacks: Buildings or structures containing batteries, fenced compounds, accessory structures, and electrical equipment shall meet the setback standards below:
- a. Measurement: Setbacks from any battery buildings, structures, or accessory structures shall be measured horizontally from the edge of the building or component structure.
  - b. Fences and Improved Areas: All fences and improved areas shall comply with the applicable setback for the underlying zoning district in which it is located.
  - c. Fenced Compounds: All structures and improved areas located within the fenced compound shall be at least thirty (30) feet from the fence line.
  - d. Utility-Scale Battery Energy Storage Systems: Utility-Scale Battery Energy Storage systems and related accessory structures shall meet the minimum setbacks in the table below:

<b>Setback from</b>	<b>Distance</b>
Non-participating property lines	100 feet
Occupied buildings on non-participating properties	500 feet
Occupied buildings on participating properties	500 feet
Lakes, rivers, creeks, and similar bodies of water and Wellhead Protection Areas	100 feet
Road rights-of-way	100 feet
High-pressure natural gas line	100 feet from center

5. Height: Wind turbines shall have a maximum finished height of three hundred (300) feet.

6. Height: Utility-Scale Battery Energy Storage components must not exceed a maximum height of twenty-five (25) feet above ground.
7. Lighting: Lighting shall be limited to inverter or substation locations only and shall comply with Article 14.04 (E)—Lighting.
8. Utility-Scale Battery Energy Storage Structures: Utility-Scale Battery Energy Storage Facility structures within a Utility-Scale Battery Energy Storage Facility shall meet the design standards below:
  - a. Consistent: All Utility-Scale Battery Energy Storage Facilities and related accessory structures within the facility shall be of the same appearance.
  - b. Good Condition: All Utility-Scale Battery Energy Storage Facility systems and related accessory structures shall be maintained in good condition at all times, consistent with or better than industry standards.
  - c. Certification: Utility-Scale Battery Energy Storage Facility systems and related accessory structures shall be approved by the Institute of Electrical and Electronics Engineers (IEEE), International Electrotechnical Commission (IEC), or other similar certification organization.
9. Wiring: All power transmission, communication, or other lines, wires, or conduits within a Utility-Scale Battery Energy Storage Facility shall meet the standards below:
  - a. Stray Voltage: All wiring shall comply with all applicable safety and stray voltage standards. Stray voltage originating from a Utility-Scale Battery Energy Storage Facility shall not be detected on any participating or non-participating properties.
    - 1) Preconstruction Test: A preconstruction stray voltage test shall be conducted on all Michigan Department of Agriculture & Rural Development (MDARD) registered livestock facilities located within a one-mile radius of all participating properties. The tests shall be performed by an investigator approved by the township at the applicant's expense.
    - 2) Report: A report of the tests shall be provided to the township and the owners of all property included in the study area.
    - 3) Permission: The applicant shall seek written permission from property owners prior to conducted testing. Testing shall not be required on non-participating properties where the owners have refused to grant permission to conduct the testing. The owner of any participating property shall not refuse the stray voltage testing.
10. Drain Tiles: Drain tiles within the Utility-Scale Battery Energy Storage Facility shall be preserved and maintained throughout the construction, operation, and restoration periods, as described below:

- a. Initial Inspection: Before the start of construction, all existing drain tiles within the facility and within any disturbed areas must be inspected by robotic camera with the imagery submitted to the township for baseline documentation on tile conditions.
  - b. Continuing Inspection: Drain tiles must be reinspected by robotic camera every three (3) years while the facility is in operation or when conditions indicate there may be damage to drain tiles with the imagery submitted to the township.
  - c. Repairs: Damaged drain tiles shall be repaired within sixty (60) days of discovery. The township shall be notified of any necessary repairs before the work commences and documentation of the repair work. Repairs necessary to address an emergency situation may be completed without prior notice to the township.
  - d. Inspection: The township reserves the right to have a township official or agent present at the time of repair of the drainage tile system.
  - e. A report of the inspection results detailing status of all drains within the project area will be provided to the township within thirty (30) days of completion of the physical inspection. These inspection reports may be shared with other township officials and agents.
11. Fire Suppression: A fire suppression system shall be provided that is specifically designed to immediately suppress and extinguish fires in any part of the Utility-Scale Battery Energy Storage Facility, including the battery components, electrical equipment, and transformers.
- a. Documentation: Documentation shall be provided confirming the effectiveness of the fire suppression system and the results of a third-party independent inspection, as approved by the township, of the fire suppression system.
  - b. Fire Authority: The fire suppression system shall be reviewed and approved by the township's fire authority.
  - c. Annual Inspection: The fire suppression system shall be inspected and approved yearly by a third-party independent inspecting company that is approved by the township.
12. Groundcover: Utility-Scale Battery Energy Storage Facilities shall include the installation of perennial ground cover vegetation that shall be maintained for the duration of operation until the site is decommissioned where appropriate within the site.
- a. PA 116 Lands: Land within the project area that is enrolled or bound by the Farmland Preservation Program must follow the Michigan Department of Agriculture and Rural Development (MDARD) Policy for Allowing Commercial Renewable Energy Development on PA 116 Lands.
  - b. Non-PA 116 Lands: Land within the project area that is not enrolled or bound by the Farmland Preservation Program must provide at least one (1) of the following types of dual-use ground cover to promote ecological benefits:

- 1) Pollinators: Pollinator habitat with a score of at least seventy-six (76) on the Michigan Pollinator Habitat Planning Scorecard for Solar Sites ([www.pollinators.msu.edu](http://www.pollinators.msu.edu));
  - 2) Conservation Cover: Conservation cover focused on restoring native plants, grasses, or prairie with the aim of protecting specific species, such as bird habitat, or providing specific ecosystem services, such as carbon sequestration or improving soil health;
  - 3) Grazing: Incorporation of rotational livestock grazing and forage production as part of an overall vegetative maintenance plan; or
  - 4) Crops: Raising crops for food, fiber, or fuel and generating electricity within the site to maximize land use.
- c. Alternative Ground Cover: The township may approve or require alternative ground cover upon finding it is not feasible to provide ground cover as defined above.
  - d. Ground Cover Nature: All ground cover must be native plants with substantial root systems to support soil. Turf grass is not permitted as ground cover.
  - e. Invasive and Noxious: Invasive species and noxious weeds are not permitted and must be removed in a timely manner.
13. Fencing: Utility-Scale Battery Energy Storage Facility compounds shall be completely surrounded by a fence designed to prevent unauthorized access and to screen the facility.
- a. Height: The fence shall be at least seven (7) feet tall.
  - b. Fence Posts: Fence posts shall extend at least thirty-six (36) inches into the ground, and gate posts and corner posts shall have a concrete foundation.
  - c. Fence Type: The fence shall be a woven agricultural-style fence. The township may require or allow durable green opaque material to be integrated into the fence if necessary for buffering or screening.
  - d. Gate Access: Gates shall be provided at all access points, unless otherwise permitted or approved. Gates for vehicular access shall be approved by the Fire Authority.
  - e. Gate Type: Gates shall be the same height and constructed of the same material as the fencing. Access, such as Knox box, shall be provided for emergency responders.
  - f. Wildlife Considerations: The township may require or allow a fence design to allow for the passage of wildlife upon a finding that adequate access control and visual screening will be preserved.

- g. Alternative Fencing: Alternate fencing may be approved by the township upon a finding that the alternative provides adequate access control and visual screening.

14. Signage: Advertising or non-project related graphics shall be prohibited. This exclusion does not apply to signs required by this ordinance.

**D. Buffering Requirements:** Utility-Scale Battery Energy Storage Facilities shall provide buffering described below:

1. Vegetative Buffer: There shall be a landscape buffer at least twenty (20) feet wide along the exterior of any fenced compound, whenever existing natural vegetation does not otherwise reasonably obscure the fenced compound.

- a. Design: The buffer shall have two (2) rows of staggered evergreen trees planted twelve (12) feet apart or less trunk-to-trunk. The two (2) rows shall be ten (10) feet apart. The township may consider an alternative landscape buffer, provided the alternative buffer provides adequate screening.
- b. Vegetation Size: Plantings shall be at least eight (8) feet tall at time of planting, measured from the top of the root ball to the base of the leader, not including the height of the leader, and must be a species that can reasonably be expected to reach a height of ten (10) feet within three (3) growing seasons.
- c. Maintenance: The trees may be trimmed but must maintain a height of at least eighteen (18) feet. Damaged or diseased trees shall be replaced at the next appropriate planting season.
- d. Evergreen Species: Evergreen trees shall be Norway Spruce in the row closest to fence and Thuja Green Giant Arborvitae in the row away from the fence. The township may require or consider alternative evergreen species, provided the alternative species are more desirable due to disease or pest or more appropriate for the local conditions.

2. Buffer Maintenance: Good arboricultural techniques shall be followed with respect to vegetation, including, but not limited to, proper pruning, proper fertilizing, and proper mulching, so that the vegetation will reach maturity as soon as practical and will have maximum density in foliage. Dead or diseased vegetation shall be removed and must be replaced in a manner consistent with these standards at the next appropriate planting season.

- a. The Utility-Scale Battery Energy Storage Facility will be inspected on at least an annual basis to ensure compliance with the Buffer Maintenance provisions outlined above.
- b. A confirmed violation of the Buffer Maintenance provision above must be addressed within thirty (30) days of the owner/operator of the Utility-Scale Battery Energy Storage Facility with a proposed resolution of the complaint submitted to the township.

**E. Performance Standards:** Utility-Scale Battery Energy Storage Facilities shall meet the performance standards below:

1. Compliance: Utility-Scale Battery Energy Storage Facilities shall be designed, constructed, operated, and maintained in compliance with all applicable provisions of local, state, and federal laws and regulations and industry standards.
2. Sound: The sound generated by Utility-Scale Battery Energy Storage Facilities must meet the sound standards of this ordinance and the additional standards below:
  - a. Day Sound Level: The maximum sound level shall be forty (40) Dba Lmax, as measured at the project boundary and road rights-of-way between the hours of 7:00 am and 9:00 pm.
  - b. Night Sound Level: The maximum sound level shall be thirty-five (35) Dba Lmax, as measured at the project boundary and road rights-of-way between the hours of 9:00 pm and 7:00 am.
  - c. Pure Tone: If pure tones are produced, the maximum sound level shall be reduced by five (5) Dba.
  - d. Ambient Sound: If the ambient sound levels exceed these standards, the maximum sound level shall be the ambient sound level plus five (5) Dba.
  - e. Inverter Sound Screening: A sound barrier of a solid decorative masonry wall or evergreen tree berm, with trees spaced not less than ten (10) feet apart, must be constructed to reduce noise levels surrounding all inverters. Berms must be within ten (10) feet of all inverters and must be at least as tall as all inverters but cannot be more than three (3) feet taller than the height of the adjacent inverters.
  - f. Continued Compliance: The sound level by a Utility-Scale Battery Energy Storage Facility must be inspected every three (3) years, at the operator's expense, by an auditory expert to ensure compliance with applicable sound standards.
3. Reports: In addition to other reports identified in this ordinance, the owner or operator shall submit the following reports to the township during the operation of Utility-Scale Battery Energy Storage Facilities.
  - a. Annual Report: An annual report shall be provided to the zoning administrator showing continuity of operation.
  - b. Operation: A report shall be provided to the zoning administrator if the Utility-Scale Battery Energy Storage Facility or any of its components are no longer being used.
  - c. Incident Report: Reports shall be submitted if there is a major incident at the Utility-Scale Battery Energy Storage Facility that did or could have caused harm to life or property, including calls for service from emergency responders. The report shall identify the cause of the incident and corrective action to prevent future incidents of that nature.

4. Safety: Utility-Scale Battery Energy Storage Facility shall be subject to the safety standards below:
  - a. Warning Signs: The manufacturer's or installer's identification and appropriate warning signs shall be posted on or near each battery storage unit and electrical equipment in a clearly visible manner.
  - b. Fire Suppression and Data Sheets: Fire suppression plans and Safety Data Sheets shall be kept onsite and be accessible for emergency responders.
  - c. Safety Manual: An unredacted copy of the manufacturer's safety manual for each component of the Utility-Scale Battery Energy Storage Facility, without distribution restraints, shall be provided before construction commences. These shall be kept at the Township Hall and other locations deemed necessary by the township or local first responders. The manual shall include standard details for an industrial site such as materials, chemicals, fire, access, and safe distances during a Utility-Scale Battery Energy Storage Facility failure, processes in emergencies, etc.
5. Interference: Utility-Scale Battery Energy Storage Facilities must not interfere with any radio, television, or other communication systems. The applicant or operator must resolve any known interference immediately and provide proof that the interference has been resolved within ninety (90) days.
6. Complaint Resolution: Utility-Scale Battery Energy Storage Facilities shall provide a complaint resolution process, as described below:
  - a. Signs: Signs with contact information to report complaints related to the Utility-Scale Battery Energy Storage Facility shall be posted throughout the project area. Signs shall be posted before construction begins and maintained until decommissioning is complete.
  - b. Resolution Options: Any resolution shall include lawful and reasonable solutions consistent with this ordinance.
  - c. Contact: A twenty-four (24) hour toll-free number shall be established and maintained by the owner or operator to receive complaints. Additional reporting methods, such as postal mail or electronic mail, may also be used.
  - d. Log: A log shall be kept by the owner or operator of all complaints received and documentation of the resolution. The log shall be available for review by township officials.
  - e. Notification: The zoning administrator shall receive notification of all complaints received. An annual report shall be submitted to the township that details all complaints received, the status of complaint resolution, and actions taken to resolve complaints.

- f. Resolution Period: Complaints for hazardous conditions shall be resolved within twelve (12) hours or as soon as reasonably possible. Other complaints shall be resolved within ten (10) business days.
    - g. Adjudication: The operator or its assignees reserve the right to adjudicate any claims, including residential claims, in a court of competent jurisdiction.
- 7. Insurance and Performance Guarantees: Utility-Scale Battery Energy Storage Facilities shall provide insurance and performance guarantees. These are in addition to other insurance or performance guarantees required by this ordinance or other entities.
  - a. General Liability Insurance: Utility-Scale Battery Energy Storage Facilities shall have and maintain general liability insurance of at least ten million dollars (\$10,000,000). The township may require a higher amount for larger projects and may allow for a lesser amount for smaller projects upon a finding that the alternate amount is more consistent with the likely risk.
  - b. General Maintenance Performance Guarantee: A General Maintenance Performance Guarantee shall be provided before construction commences to guarantee all aspects of this ordinance are met at all times during the construction and operation of the Utility-Scale Battery Energy Storage Facility. At the time of the application, the applicant shall submit two (2) third-party contractor bids for construction of all fencing, landscaping, and drainage improvements associated with the Utility-Scale Battery Energy Storage Facility, and the performance guarantee shall be the higher of the two (2) bids. The township may use the performance guarantee to repair any landscaping, fencing, drainage infrastructure (including drainage tiles), and/or to correct any ongoing violation of this ordinance in the event that the site improvements for the Utility-Scale Battery Energy Storage Facility are not maintained or the Utility-Scale Battery Energy Storage Facility fails to make operational changes to correct an operational violation.
  - c. Road Performance Guarantee: A road performance guarantee shall be provided before construction commences in a form acceptable to the township, such as: a) a surety bond from a surety listed as acceptable on the Federal Surety Bond circular 570 of the U.S. Department of Treasury; or b) an acceptable irrevocable letter of credit; or c) an escrow account established in a financial institution licensed in the State of Michigan. A construction surety bond shall not be accepted. The amount of the performance guarantee shall be at least one million two hundred fifty thousand dollars (\$1,250,000), but this amount may be increased if the third-party consultant determines the amount needed for road repairs is greater than this amount. The performance guarantee shall only be released, in whole or part, when the Township Board, in consultation with the Livingston County Road Commission and Michigan Department of Transportation, as applicable, and the third-party inspector, determines that all required road work has been completed and approved by the affected road agencies. The township may waive or reduce the requirement for this performance guarantee if the road agencies collect a performance guarantee.
  - d. Complaint Inspection Escrow: An escrow account, funded by the applicant, owner, or operator, to be used for investigation of complaints shall be established

before construction commences. The escrow account shall be used by the township for investigation of complaints, including reasonable reimbursement of qualified third-party agents, for, but not limited to, glare, stray voltage, sound, and signal interference. The escrow account shall be kept with the township treasurer. The initial escrow account shall be in the amount of fifteen thousand dollars (\$15,000.) When the escrow account balance is below five thousand dollars (\$5,000), the township shall notify the responsible party, who must replenish the escrow account to the amount of fifteen thousand dollars (\$15,000) within a period of forty-five (45) calendar days.

8. Dust Control: Reasonable dust control measures shall be taken during construction, operation, and decommissioning.
9. Plants and Grasses: Plants or grasses not part of the buffer area shall be maintained at a height of twelve (12) inches or less. The township may approve a taller height upon a finding that it will not result in a nuisance.
10. Wildlife: Utility-Scale Battery Energy Storage Facilities shall be designed, sited, and operated in a manner to minimize impact on wildlife.
  - a. Wildlife Impact Analysis: The applicant shall have a third-party qualified professional, acceptable to the township, conduct an analysis to identify and assess any potential impacts on wildlife and endangered species. At a minimum, the analysis shall include a thorough review of existing information regarding species and potential habitats in the vicinity of the project area. Where appropriate, surveys for bats, raptors, or general avian use shall be conducted. The analysis shall include the potential effects on species listed under the federal Endangered Species Act and Michigan's Endangered Species Protection Law.
  - b. Adverse Impacts: Appropriate measures shall be taken to minimize, eliminate, or mitigate adverse impacts identified in the analysis. The applicant shall identify and evaluate the significance of any net effects or concerns that will remain after mitigation efforts.
  - c. Special Scrutiny: Sites requiring special scrutiny include wildlife refuges, other areas where birds are highly concentrated, bat hibernacula, wooded ridge tops that attract wildlife, sited that are frequented by federally- or state-listed endangered species of birds and bats, significant bird migration pathways, and areas that have landscape features known to attract large numbers of raptors.
  - d. US Fish and Wildlife Service: The applicant shall follow all pre-construction and post-construction recommendations of the United States Fish and Wildlife Service.
  - e. Post-Construction Mortality Study: A post-construction wildlife mortality study may be required. The analysis should indicate if such a study is determined unnecessary and the reasons why such a study does not need to be conducted. All above-ground lines, transformers, or conductors should follow any Avian Power Line Interaction Committee (APLIC, <http://www.aplic.org/>) guidelines to prevent avian mortality.

11. Environment: Utility-Scale Battery Energy Storage Facilities shall be designed, sited, and operated to minimize impact on the environment.
  - a. Environmental Impact Analysis: The applicant shall have a third-party qualified professional, acceptable to the township, conduct an analysis to identify and assess any potential impacts on the natural environment including, but not limited to, wetlands and other fragile ecosystems, historical and cultural sites, and antiquities.
  - b. Adverse Impacts: Appropriate measures shall be taken to minimize, eliminate, or mitigate adverse impacts identified in the analysis. The applicant shall identify and evaluate the significance of any net effects or concerns that will remain after mitigation efforts.
  - c. Environmental Laws: Utility-Scale Battery Energy Storage Facilities shall comply with applicable parts of the Michigan Natural Resources and Environmental Protection Act (Act 451 of 1994, MCL 324.101 et seq.), Part 91 Soil Erosion and Sedimentation Control (MCL 324.9101 et seq.), Part 301 Inland Lakes and Streams (MCL 324.30101 et seq.), Part 303 Wetlands (MCL 324.030301 et seq.), Part 323 Shoreland Protection and Management (MCL 324.32301 et seq.), Part 325 Great Lakes Submerged Lands (MCL 324.32501 et seq.), and Part 353 Sand Dunes Protection and Management (MCL 324.35301 et seq.)
  - d. Containment System: A containment system shall surround any transformers in case of hazardous waste or oil spills.
  - e. Removal: All solid and hazardous waste materials shall be promptly removed from the site and disposed of properly.
  - f. Responsibility: The Utility-Scale Battery Energy Storage Facility owner, operator, and property owner shall be jointly and severally responsible for mitigating erosion, flooding, and all other environmental impacts resulting from the facility.
12. Emergency Action Plan: Utility-Scale Battery Energy Storage Facilities shall have an emergency action plan to identify actions to be taken in event of an emergency.
  - a. The Emergency Action Plan shall jointly be reviewed and approved by the Howell Fire Department and Livingston County Emergency Management Director before the operation of the Utility-Scale Battery Energy Storage Facility can begin commercial operation. The Emergency Action Plan shall be reviewed every three years by the Howell Fire Department and the Livingston County Emergency Management Director. All approvals or reviews of the Emergency Action Plan shall be provided to the township. The cost for any review shall be the responsibility, jointly and severally, of the Utility-Scale Battery Energy Storage Facility owner or operator.
  - b. Fire Suppression: The emergency action plan must include a fire suppression plan, including the technology to be used.

- c. **Special Equipment and Training:** The emergency action plan shall identify special equipment and training that is required for emergency response to the Utility-Scale Battery Energy Storage Facility.
- d. The cost of purchasing the required special equipment for fire protection will be the responsibility, jointly and severally, of the owner and operator of the Utility-Scale Battery Energy Storage Facility.
- e. **Clean-up:** The emergency action plan must include plans for immediate cleanup and long-term aftermath efforts following an emergency.
- f. **Emergency Training:** Before the Utility-Scale Battery Energy Storage Facility is operational, the owner or operator of the Utility-Scale Battery Energy Storage Facility must provide the necessary training, equipment, or agreements specified in the emergency action plan to the township, Howell Fire Department, Livingston County Emergency Response Director, or any other emergency personnel at the local, state, or federal level. All training must be consistent with current industry standards.
- g. The cost of the required training for the fire protection personnel shall be the responsibility, jointly and severally, of the owner and operator of the Utility-Scale Battery Energy Storage Facility.
- h. Once a year, a fire suppression training shall be held with the cost of such training being the responsibility, jointly and severally, of the owner and operator of the Utility-Scale Battery Energy Storage Facility.
- i. **Public Record:** The Emergency Action Plan will be a public record. Copies of the most up-to-date Emergency Action Plan shall be maintained at all times at the Utility-Scale Battery Energy Storage Facility, the Marion Township Hall, the Howell Fire Department substation located at the Marion Township Hall, and at the office of the Livingston County Emergency Response Director. This plan shall be available for public inspection if requested.

**F. General Provisions:** Utility-Scale Battery Energy Storage Facilities shall be subject to the general provisions below:

- 1. **Damage Repair:** The owner, operator, and property owner shall be jointly and severally responsible for making repairs to any public roads, drains, and infrastructure damaged by the construction of, use of, maintenance of, or damage to the Utility-Scale Battery Energy Storage Facility.
- 2. **Mixed Facilities:** Utility-Scale Battery Energy Storage Facilities may be co-located with other renewable energy facilities, such as Utility-Scale Solar Energy Facilities or Utility-Scale Wind Energy Conversion Facilities. Review and approval are required for each use.
- 3. **As-Builts:** The applicant shall submit an as-built drawing with dimensions relative to property lines of all new structures including battery storage units and buried cable both inside and outside fenced areas upon completion and before any power is supplied to the grid. The as-built drawing shall be a scale of 1" = 200 feet.

4. Repowering or Modifications: Any modifications of an approved site plan or special use permit that are made after the initial date of approval, including, but not limited to, an expansion of project, repowering, reconfiguration, or technological updates, shall require new site plan and special use permit applications. Any changes of the approved site plan or special use permit will be subject to this ordinance as it exists at the time of this new application.
5. Transfer or Sale: In the event of a transfer or sale of a Utility-Scale Battery Energy Storage Facility, the new owner or operator must notify the township within thirty (30) days, and the zoning administrator shall administratively amend the permit to name the new owner or operator. Upon transfer or sale, the cash bond shall be transferred to the new owner or operator and shall be maintained at all times, the estimated costs of decommissioning shall be resubmitted, and the security bond adjusted to account for the new estimate.

**G. Decommissioning, Abandonment, and Restoration:** Following the operational life or abandonment of a Utility-Scale Battery Energy Storage Facility, the site shall be decommissioned and restored as outlined below:

1. Decommissioning Plan: The applicant shall have a third-party qualified professional, acceptable to the township, prepare a decommissioning plan. The decommissioning plan shall be written to provide security to the township for one hundred twenty-five percent (125%) of the cost to remove and dispose of all battery components and wiring and to restore the land to its original conditions. The decommissioning security shall be paid in cash to the township.
  - a. Anticipated Life: The decommissioning plan shall describe the anticipated life span of the Utility-Scale Battery Conversion Storage Facility and its components.
  - b. Decommissioning Costs: The decommissioning plan shall provide a probable cost estimate for decommissioning, including current cost and cost at the time of decommissioning.
  - c. How Paid: The decommissioning plan shall provide a description of how decommissioning costs will be paid.
  - d. Regular Updating: The decommissioning plan shall be updated on a regular-period basis of at least once every three (3) years.
2. Abandonment: Utility-Scale Battery Energy Storage Facilities or any components that are not operated for a continuous period of six (6) months shall be considered abandoned, whether or not there is an intent to continue the use, and shall be removed or restored to operation. An extension may be granted by the township upon finding that the delay does not create a hazardous condition and the applicant has demonstrated a good-faith effort to continue operation.
3. Damage: Any Utility-Scale Battery Energy Storage Facility components that are damaged shall be replaced or removed within seven (7) days. An extension may be granted by the township upon finding that it is not feasible to replace or remove the component in that period and that the delay does not create a hazardous condition.

4. Unsafe: Any unsafe components shall be removed or made safe within a reasonable period as determined by the township.
5. Compaction Prevention: All abandonment and decommissioning work must be done when soil is dry or frozen to prevent compaction.
6. Chemical Analysis and Boring: A chemical analysis and boring of the soil, as recommended by the township engineer, shall be performed before any decommissioning work begins with the results compared to the baseline soil chemical analysis baseline test results obtained before construction of the Utility-Scale Battery Energy Storage Facility.
  - a. Chemical Levels: All levels of any chemical entity found in the soil chemical analysis must be equal to or lower than the levels of all chemical entities determined in the baseline testing performed prior to construction. If a new chemical entity, either organic or inorganic compounds, is identified in the soil chemical analysis, its level must be below established federal and state government levels for hazardous materials in soils for that chemical entity.
  - b. Report: A report of the soil chemical analysis must be provided to the township within seven (7) days. If any chemical entity, organic or inorganic compounds, is above established federal and state government levels for hazardous materials in soils, the report must be submitted to the appropriate federal and state regulatory agencies within seven (7) days of receiving the testing report showing a violation.
  - c. Violation Mitigation: Once a violation has been determined and finalized, a reclamation plan for the contaminated soil must be developed and implemented to remove the contaminated soil from the Utility-Scale Battery Energy Storage Facility site. The reclamation plan must meet all federal and state regulations for the reclamation of a contaminated site. The plan must be approved by the township board and the township engineer. Once the contaminated soil has been removed and replaced with uncontaminated soil, a final soil chemical analysis shall be performed to confirm the Utility-Scale Battery Energy Storage Facility site soils have been returned to its original state for levels of organic and inorganic compounds that existed before construction.
  - d. Cation Exchange Capacity: A Cation Exchange Capacity soil test shall also be required at the completion of the decommission process. The company to complete this study will be determined jointly by the township and the property owner. The final report of this test shall be submitted to the township and property owner for review and comment.
  - e. Violation Remediation: Any negative variations from the preconstruction soil testing must be remedied and the final results of the testing approved by the township engineer and the township board.
7. Ground Restoration: The ground must be restored to its original topography and land must be restored to a depth of three (3) feet below grade within three hundred sixty-five (365) days of abandonment or decommissioning. An extension may be granted by the township if a good-faith effort has been demonstrated and any delay is not the result of

actions or inaction of the operator. An alternative topography can be approved by the township as part of the original site plan review or later as part of decommissioning.

8. Land Balancing: If land balancing is required, all top soil will be saved within the project site and spread evenly over balanced area.
  9. Township Action: The township may remove any abandoned or unsafe Utility-Scale Battery Energy Storage Facility components that are not removed or restored within the allowed time. The owner, operator, and property owner shall be jointly and severally responsible for any costs.
  10. Attorney Costs: The owner, operator, and property owner shall be jointly and severally responsible for the payment of all attorney fees and other costs incurred by the township in the event that the township has to enforce removal.
  11. Vegetation: Disturbed land shall be revegetated at the next appropriate planting season.
  12. Disposal: It is the responsibility, jointly and severally, of the owner, operator, and property owner of the Utility-Scale Battery Energy Storage Facility to remove all structures, equipment, and waste from the site and disposed of properly. All costs for this disposal of structures, equipment, and waste shall be the total responsibility, jointly and severally, of the Utility-Scale Battery Energy Storage Facility owner, operator, and property owner.
  13. Compliance with the above provisions of Section G—Decommissioning, Abandonment, and Restoration, shall be determined by review of all actions, documents, and reports of said decommissioning by the Board of Trustees of Marion Township.
- H. **Application Materials:** Applicants for Utility-Scale Battery Energy Storage Facilities must submit the following additional materials with the special use permit application. These materials are in addition to information required for site plan and special use permit applications.
1. Identification: The name and address in full of the applicant, developer, owner, operator, and property owners, a statement that the applicant is the owner involved in the application, and any additional contact information shall be submitted.
  2. Application Dating: Each application for a Utility-Scale Battery Energy Storage Facility shall indicate the date the application is received by the township.
  3. Purchase Agreements or Leases: Copies of all purchase agreements or leases for all participating properties that confirm the applicant has the permission of the participating property owners to apply for the necessary approvals and permits for construction and operation of a Utility-Scale Battery Energy Storage Facility.
  4. Project Description: A general description of the proposed project, including nameplate-generating capacity and an anticipated construction schedule shall be submitted.
  5. Battery Components: A complete description of the proposed technology to include type of battery components, dimensions, anticipated life, and any hazardous materials contained in the battery components shall be submitted.

6. Conceptual Plan and Elevations: A graphical computer-generated depiction of how the Utility-Scale Battery Energy Storage Facility will appear from all directions shall be submitted.
7. Documentation: A complete set of photos and video of the entire development area, including construction access roads, as it exists before the application date shall be submitted.
8. Operation: A description of operations, including anticipated regular and unscheduled maintenance and the hours of the day maintenance will take place shall be submitted.
9. Power Purchase Agreement: A copy of the power purchase agreement or other written agreement with an electric utility showing approval of an interconnection with the proposed Utility-Scale Battery Energy Storage Facility shall be submitted.
10. Insurance: Proof of the general liability insurance to cover the Utility-Scale Battery Energy Storage Facility, the township, and the participating property owners shall be submitted.
11. Certifications: Certification shall be submitted that the Utility-Scale Battery Energy Storage Facility will comply with all applicable state and federal laws and regulations in effect at the time the application is submitted, including, but not limited to: Part 31, Water Resources Protection of the Natural Resources and Environmental Protection Act (MCL 324.3101 et. seq.); Part 91, Soil Erosion and Sedimentation Control (MCL 324.9101 et. seq.) and any corresponding county ordinances; Part 301, Inland Lakes and Streams (MCL 324.30101 et. seq.); Part 303, Wetlands (MCL 324.30301 et. seq.); and Part 365, Endangered Species Protection (MCL 324.36501 et seq.)
12. Farmland Preservation Approval: Utility-Scale Battery Energy Storage Facilities with any participating properties that are enrolled in the Michigan Farmland Preservation program must provide confirmation of approval from the Michigan Department of Agriculture to locate the facility on the property.
13. Road Agencies: Proof of approval or conditional approval by any road agency from which the Utility-Scale Battery Energy Storage Facility will have access or whose roads will be used as a construction or maintenance route shall be submitted.
14. Drain Commission: Proof of approval or conditional approval by the Livingston County Drain Commission for any Utility-Scale Battery Energy Storage Facility that has participating properties with a county drain or proposed improvements within a county drain easement.
15. Manufacturers' Safety Data Sheet(s): Documentation including the type and quantity of all materials used in the operation of all equipment shall be submitted.
16. Wildlife Impact: Copy of the wildlife impact analysis shall be submitted.
17. Environmental Impact: Copy of the environmental impact analysis shall be submitted.
18. Soil Chemical Analysis: A chemical analysis and borings including a Cation Exchange Capacity (CE) of the soil involved in the project must be completed as recommended by the township engineer.

- 19. Complaint Resolution Protocol: Copy of complaint resolution protocol shall be submitted.
- 20. Decommissioning Plan: Copy of the decommissioning plan shall be submitted.
- 21. Emergency Action Plan: Copy of the Emergency Action plan shall be submitted.
- 22. Indemnification: An attestation that the applicant, owner, operator, and property owners, jointly and severally, will indemnify and hold the township harmless from any costs or liability arising from the approval, installation, construction, maintenance, use, repair, or removal of the Utility-Scale Battery Energy Storage Facility, which is subject to the township's review and approval, shall be submitted.
- 23. Right-to-Enter: Submission of an application for a Utility-Scale Battery Energy Storage Facility grants the township and its agents the right to enter the facility and any participating property for inspection of the Utility-Scale Battery Energy Storage Facility at any reasonable time. The township may hire a consultant to assist with any such inspections at a reasonable cost to be charged to the applicant, owner, or operator, jointly and severally.
- 24. Additional Information: Any additional information, studies, or documentation requested by the township or its agents that are deemed necessary to determine compliance with this ordinance and other applicable laws and regulations.

I. **Utility-Scale Battery Energy Storage Facilities under PA 233:** On or after November 29, 2024, once PA 233 of 2023 is in effect, the following provisions apply to any Utility-Scale Battery Energy Storage Facilities with a nameplate capacity of at least fifty (50) megawatts and an energy discharge capacity of at least two hundred (200) megawatt hours. These provisions below shall control to the extent that they conflict with the other provisions in Article 17.38—Utility-Scale Battery Energy Storage Facilities. This subsection does not apply if PA 233 of 2023 is repealed, enjoined, or otherwise not in effect. This subsection does not apply to Utility-Scale Battery Energy Storage Facilities with a nameplate capacity of less than fifty (50) megawatts or an energy discharge capability of fewer than two hundred (200) megawatt hours. All provisions in Article 17.38--Utility-Scale Battery Energy Storage Facilities that do not conflict with this subsection remain in full force and effect.

- 1. Setbacks: Utility-Scale Battery Storage must comply with the minimum setback requirements in the table below, with setback distances measured from the nearest edge of the perimeter fencing of the facility:

<b>Setback Description</b>	<b>Setback Distance</b>
Occupied community buildings and dwellings on nonparticipating properties	300 feet from the nearest point on the outer wall
Public road right-of-way	50 feet measured from the nearest edge of a public road right-of-way
Nonparticipating parties	50 feet measured from the nearest shared property line

2. Installation: Installation for the Utility-Scale Battery Energy Storage Facilities must comply with the latest version of the National Electric Code as of November 29, 2024, or as subsequently amended.
3. Sound: Utility-Scale Battery Storage Facilities must not generate a maximum sound in excess of fifty-five (55) average hourly decibels as modeled at the nearest outer wall of the nearest dwelling located on an adjacent nonparticipating property. Decibel modeling shall use the A-weighted scale as designed by the American National Standards Institute.
4. Lighting: Utility-Scale Battery Storage Facilities must implement dark sky-friendly lighting solutions.
5. Environmental Regulations: Utility-Scale Battery Energy Storage Facilities must comply with applicable state or federal environmental regulations.
6. Host Community Agreement: The applicant shall enter into a host community agreement with the township. The host community agreement shall require that, upon commencement of any operation, the Utility-Scale Battery Energy Storage Facility owner must pay the township two thousand dollars (\$2,000) per megawatt of nameplate capacity. The payment shall be used as determined by the township for police, fire, public safety, or other infrastructure, or other projects as agreed to by the township and the applicant.
7. PA 233 Requirements: The Utility-Scale Battery Energy Storage Facility shall be subject to the other applicable rules and regulations outlined in PA 233 of 2023 and by the Michigan Public Service Commission.
8. Applicant's Option: An applicant can elect at the time of application to have their application for a Utility-Scale Battery Energy Storage Facility processed using the other provisions of Article 17.38--Utility-Scale Battery Energy Storage Facilities, even if PA 233 of 2023 is in full effect.

**ARTICLE XVIII:           SITE PLAN REQUIREMENTS**

**Section 18.01           Purpose**

It is the purpose of this Section to specify standards and data requirements, which shall be followed in the preparation of site plans as required by this Ordinance. It is also the purpose of this Section to ensure that:

- A. The proposed use will not be injurious to the surrounding neighborhood and protects the general health, safety, welfare and character of the Township;
- B. Natural resources will be preserved to the maximum extent possible in the site

design by developing in a manner which will not detrimentally affect or destroy natural features such as lakes, ponds, streams, wetlands, steep slopes, soils, groundwater and woodlands; and

- C. Landscaping, including grass, trees, shrubs and other vegetation is provided to maintain and improve the aesthetic quality of the site and area.

### **Section 18.02      Approval of Site Plan Required**

A final site plan shall be reviewed by the Planning Commission who shall then provide a recommendation of approval, approval with conditions, or denial, to the Township Board of Trustees. The Township Board of Trustees must approve or approve with conditions the final site plan prior to the establishment of any new land use, change of use, addition to an existing use, or the erection of any structure in any zoning district. Individual single-family structures erected within a single lot, parcel or building envelope shall not require site plan review.

- A. The Township shall not issue a land balancing permit until the final site plan has been approved by the Township Board of Trustees and is in effect.
- B. No grading, removal of trees or other vegetation, landfilling, land balancing, or construction of improvements shall commence for any development that requires site plan approval until a final site plan is approved and is in effect, except as otherwise provided in this Article.

### **Section 18.03      Preliminary Site Plan**

- A. **Application.** Any applicant may submit a request for preliminary site plan review by filing with the Zoning Administrator completed forms, payment of the review fee required herein, and twelve (12) copies of the preliminary site plan drawing(s), and six (6) 11 x 17 inch color aerial photographs of the site area and surrounding areas showing overlaying property lines and the proposed site layout at a scale ten times that used for the site plan, and one (1) 24 x 36 inch presentation aerial photograph, at least twenty-one (21) days prior to the next scheduled Planning Commission meeting. The Administrator, upon receipt of the application, shall transmit only complete submittals of the preliminary site plan to the Planning Commission. The purpose of such preliminary review is to confirm general compliance with Township standards as well as to suggest changes, if necessary, for final site plan approval.

**B. Information Required.** Site plans shall consist of an overall plan for the entire development. Sheet size shall be at least 24" x 36" with plan view drawn to a scale of no greater than 1" = 50' for property less than three (3) acres or no greater than 1" = 100' for property three (3) or more acres. A preliminary site plan submitted for review shall contain all of the following information in a clear and legible format.

#### General Information

1. Name of the proposed development.
2. Name, address, phone, fax number and/or email of applicant(s), property owner(s), engineer(s), architect(s), and landscape architect(s).
3. A written narrative of the proposed use(s) of the property. For other than residential uses, including factors that potentially impact the proposed development may have on the surrounding area.
4. One (1) presentation quality aerial photograph with adjacent property information and features including, though not limited to, the following: land use(s), property owner(s), sidwell number(s), location of adjacent buildings, driveways, streets, existing and proposed lot lines, building lines, structures, and parking areas on the parcel and within one hundred (100) feet of the site.
5. Date of plan preparation, including revision dates.
6. Complete legal description of the site.
7. Professional seal of a registered architect, engineer, surveyor, landscape architect, or a planner.
8. Vicinity map drawn at a scale of 1" = 2,000'.
9. Dimensions and gross acreage of the site.
10. Zoning classification of petitioner's parcel and all abutting parcels and demonstration of compliance with lot area, width, coverage, and setback

requirements.

11. Scale and north arrow on each plan sheet.
12. Existing natural features and man-made features to be retained or removed.
13. Adjacent property information and features including, though not limited to, the following: land use(s), property owner(s), sidwell number(s), zoning classification, location of adjacent buildings, driveways, streets.
14. Existing and proposed lot lines, building lines, structures, parking areas, etc., on the parcel and within one hundred (100) feet of the site.
15. Proposed construction phasing.
16. Identification of variances that may be required.

### Physical Features

1. Location, size, and dimension of proposed buildings/structures, including floor area, finished floor elevation, number of floors, height, number and type of dwelling units (where applicable).
2. Location of existing and proposed private and public roads and access drives, including general alignment, right-of-way or easement, surface type, and width.
3. Location, size, and dimension of the following existing and proposed site features: water main, wells, detention and forebay basins, private utilities, utility poles, and public and private easements.
4. Location, size, and dimension of existing and proposed storm sewer, culverts, ditches, and public and private storm sewer easements.
5. Location, size, and dimension of existing and proposed sanitary sewer, septic fields, reserve septic fields (including reserve fields), sewage

disposal facilities, and public and private sanitary sewer easements.

6. Location of all existing and proposed parking, including dimensions of spaces, maneuvering lanes, and surface type, where applicable.

### Natural Features

1. Soil characteristics of the parcel to at least the detail provided by the U.S. Soil Conservation Service, Soil Survey of Livingston County, Michigan.
2. Existing topography with a maximum contour interval of two (2) feet for the site and beyond the site for a distance of one hundred (100) feet in all directions. Final grading plan, showing finished contours at a maximum interval of two (2) feet, correlated with existing contours so as to clearly indicate required cutting, filling and grading.
3. Location of existing wetlands, drainage courses, floodplains, and associated bodies of water, within one hundred (100) feet of the site, and their elevations.
4. Location of existing woodlands delineated with symbolic lines tracing the spread of the outermost branches and shall be described as to the general sizes and kinds of trees contained.
5. Location of natural resource features, including, but not limited to, woodlands and areas with slopes greater than eighteen percent (18%) incline.

### Additional Requirements for Residential Developments

1. Density calculations by type of unit.
2. Designation of units by type and number of units in each building.
3. Amount, type, and location of common open space, including general and limited common elements within a site condominium, and any recreational amenities (i.e., playground equipment).

C. **Planning Commission Action.** The Planning Commission shall recommend to the Township Board of Trustees approval, approval with conditions or denial of the preliminary site plan. If the preliminary site plan requires extensive revisions to meet Township requirements, the Planning Commission may recommend denial of the preliminary site plan. The Planning Commission shall set forth the reason for its action in the record of the meeting at which action is taken.

1. The Planning Commission recommendation of the preliminary site plan shall be forwarded to the Township Board of Trustees for its review.
2. If the preliminary site plan is recommended for denial or approval with conditions, the applicant may address all the conditions and submit the revised preliminary site plan to the Zoning Administrator for further action by the Planning Commission. The applicant may choose to proceed to the Township Board for review of the preliminary site plan.

D. **Board of Trustees Action.** The Township Board of Trustees shall review the preliminary site plan and approve, approve with conditions, or deny the preliminary site plan.

1. If the Board of Trustees approves the preliminary site plan, the applicant may submit a final site plan to the Zoning Administrator in accordance with the provisions herein.
2. If the preliminary site plan is approved with conditions, the applicant shall address all the conditions and submit a revised site plan to the Zoning Administrator. Upon a determination by the Township's Engineer and Planner that all the conditions have been satisfied, the plan shall be forwarded to the Planning Commission for final site plan review.
3. If the preliminary site plan is denied by the Township Board, the applicant may submit an alternative preliminary site plan to the Zoning Administrator for review by the Planning Commission in accordance with the provisions herein.

E. **Effect of Approval.** Approval or approval with conditions of a preliminary site plan by the Township Board of Trustees shall indicate general acceptance of the use and the proposed layout of buildings, streets and drives, parking areas, other facilities and overall character of the proposed development. The Zoning Administrator or duly-appointed agent shall, within ten (10) days of the date of

approval of the preliminary site plan by the Board of Trustees, transmit a written certification of such approval to the applicant.

- F. **Expiration of Approval.** Approval of a preliminary site plan by the Board of Trustees shall be valid for a period of one (1) year from the date of approval and shall expire and be of no effect unless a completed application for a final site plan approval with all necessary supporting information is filed with the Zoning Administrator within that time period.

#### **Section 18.04 Final Site Plan**

- A. **Application.** The applicant shall submit to the Zoning Administrator twelve (12) copies of a final site plan as well as other data and exhibits hereinafter required, the review fee required herein, and a completed application form. The Zoning Administrator, upon receipt of the application, shall transmit only complete submittals of the final site plan drawing(s) to the Planning Commission prior to its next regular meeting.
- B. **Information Required.** Site plans shall consist of an overall plan for the entire development. Sheet size shall be at least 24" x 36" with plan view drawn to a scale of no greater than 1" = 50' for property less than three (3) acres or no greater than 1" = 100' for property three (3) or more acres. A final site plan submitted for review and approval shall contain all of the information required for the preliminary site plan in addition to the following data presented in a clear and legible format.

##### Physical Features

1. Location of existing and proposed centerline, edge of roadway, approach radii at intersections, and pavement cross-sections for public and/or private roads on site or abutting the site. Acceleration, deceleration, passing lanes, approaches and curb and gutter shall also be shown.
2. Existing and proposed location, width, and approach radii of access drives, driveways, sidewalks, pathways, and curb and gutter. Pavement cross sections shall be provided for each.
3. Existing and proposed off-street parking with calculations of the number of parking spaces required and provided.

4. Location of existing storage tanks. This may include, but not be limited to, information on the following:
  - Chemical and fuel storage tanks and containers;
  - Water supply facilities;
  - Sanitary sewage disposal facilities;
  - Storm water control facilities and structures; and
  - Location of all easements.
5. Location, size/dimension of existing and proposed fire hydrants, water service and fire suppression leads, and public and private water main easements. (All proposed water mains must meet the standards of the Marion, Howell, Oceola, Genoa (MHOG) Water Authority.)
6. Grading and overflow route for proposed and existing detention and forebay basins and public and private drainage easements. Calculations shall be included and indicate that the detention and forebay areas meet the Livingston County Drain Commission standards.
7. A note shall indicate the ultimate outlet for storm water runoff (County Drain, creek, or river).
8. Location of all building structures with setback and yard dimensions.
9. Dimensioned floor plans and typical elevation views for all buildings, where applicable.
10. Proposed exterior lighting locations, typical detail, and illumination pattern.
11. Location and description of all existing and proposed landscaping, berms, fencing, retaining walls, and quantity and size of all proposed landscaping.
12. Trash receptacle pad location, area, method of screening, pavement type and cross-section.
13. Location, area, depth, and method of screening of transformer pads, compressors, air conditioners, generators, refrigeration units, and similar equipment, where applicable.

14. Entrance detail(s) including traffic control and monument sign locations and size.

15. Designation of fire lanes.

16. Proposed grading and how it shall tie into existing grading, and the limits of clearing and grading. Elevations shall be provided at, though not limited to: top of curb and/or edge of pavement, edge of walk/pathway, top and bottom of retaining wall, property corners, finished floor, storm structures, and detention and forebay high water.

17. Location of existing and proposed ground, wall, or directional signs, and details of all proposed signs.

18. Any other pertinent physical features.

#### Additional Requirements for Commercial and Industrial Developments

1. Loading/unloading areas.

2. Total and useable floor area.

3. Number of employees in peak usage.

C. **Standards for Review.** In reviewing the final site plan, the Planning Commission and Township Board shall determine whether the plan meets the following specifications and standards:

1. The plan conforms to the approved preliminary site plan and with all Zoning Ordinance regulations.

2. All required information is provided.

3. There is a proper relationship between major thoroughfares and proposed service drives, driveways and parking areas. Proper access to all portions of the site and all sides of any structure is provided. All structures or groups of structures shall be so arranged as to permit emergency vehicle

access by some practical means.

4. Site plans shall fully conform to the Livingston County Drain Commission standards.
5. Wastewater treatment systems, including on-site septic systems, will be located to minimize any potential degradation of surface water or groundwater quality and meet County and State standards.
6. Sites which include storage of hazardous materials or waste, fuels, salt, or chemicals will be designed to prevent spills and discharges of polluting materials to the surface of the ground, groundwater or nearby water bodies in accordance with County and State standards, where applicable.
7. The proposed use is in compliance with all Township Ordinances and any other applicable laws.

D. **Planning Commission Action.** The Planning Commission shall recommend to the Township Board of Trustees approval, approval with conditions, or denial of the final site plan within ninety (90) days after the final site plan is first reviewed by the Planning Commission. This time limit may be extended upon agreement between the applicant and the Planning Commission. The Planning Commission may suggest modifications in the proposed final site plan as are needed to gain Planning Commission recommendation for approval. All engineering drawings and plans shall be reviewed by the township's engineer, planner, attorney, Howell Area Fire Authority, and appropriate Livingston County and state agencies before a final site plan may be recommended for approval, approval with conditions, or denial by the Planning Commission.

E. **Effect of Approval.** A recommendation of approval advances the final site plan to the Township Board of Trustees for its review and action. Upon approval of a final site plan by the Township Board of Trustees, the applicant may apply for a land balancing/land use permit in accordance with the terms of the approved final site plan and any other Township requirements.

F. **Expiration of Approval.** Approval of a final site plan shall expire and be of no effect one (1) year following the date of approval unless construction has begun on the property in conformance with the approved final site plan.

## **Section 18.05      Combining Preliminary and Final Site Plans**

An applicant may, at their discretion and risk, request to combine a preliminary and final site plan in one (1) application for approval. In such a situation, the portion of the review process concerning preliminary site plan application and review may be waived by the Planning Commission. The Planning Commission shall have the authority to require submittal of a preliminary site plan separate from a final site plan where, in its opinion, the complexity and/or scale of the site for the proposed development so warrant.

#### **Section 18.06          Conformity to Approved Site Plans**

Property, which is the subject of an approved final site plan, must be developed in strict compliance with the approved final site plan and any amendments thereto which have been approved by the Township Board of Trustees. If construction does not conform to the approved final site plan, the approval shall be revoked. Upon revocation of such approval, all construction activities shall immediately cease upon the site, other than actions taken to correct the violation. For residential developments, no land use permit for dwellings shall be issued until the first course of blacktop, by development phase if applicable, and landscaping has been installed. The required landscaping shall include, but not be limited to, greenbelts, entrance(s), detention/retention basins, and buffers as shown on the approved final site plan.

#### **Section 18.07          Amendment of Approved Site Plan**

The Zoning Administrator shall have the authority to determine if a proposed change requires an amendment to an approved final site plan. The Zoning Administrator may approve minor changes in an approved final site plan, provided that a revised final site plan drawing(s) be submitted showing such minor changes, for purposes of record. An approved final site plan may be amended upon re-application including any fees required and in accordance with the procedure herein for a final site plan.

#### **Section 18.08          Construction Plan Review**

Following approval of the final site plan by the Township Board of Trustees, the applicant shall submit to the Zoning Administrator two (2) copies of construction plans as well as any other data and exhibits hereinafter required. The construction plans shall be consistent with the approved final site plan but shall provide greater detail in accordance with the Marion Township Engineering Standards. Approval of the construction plans by appropriate authorities is required prior to beginning construction.

## **Section 18.09 Construction Observation**

Marion Township or its designated representative will provide observation on all proposed public utilities and improvements, as well as limited construction observation of private improvements. The requirements for construction observation and final project closure shall be in accordance with the Marion Township Engineering Standards, as amended.

## **Section 18.10 Modification of Plan During Construction**

All improvements shall conform to the final site plan. It shall be the responsibility of the applicant to notify the Zoning Administrator of any such changes prior to such change being made. Any changes which result in a material alteration of the approved final site plan shall require resubmittal of a site plan, which shows the proposed changes, to the Planning Commission including any fees determined by the Township Board of Trustees. The Planning Commission or Township Board of Trustees may require the applicant to correct the changes so as to conform to the approved final site plan.

## **Section 18.11 Phasing of Development**

The applicant may, at their discretion, divide the proposed development into two (2) or more phases. In such case, the preliminary site plan shall cover the entire property involved and shall clearly indicate the location, size, and character of each phase. A site plan for each phase shall be submitted in accordance with the procedure herein for a final site plan including any fees required.

## **Section 18.12 Appeals**

No decision or condition related to a site plan approval shall be taken to the Zoning Board of Appeals.

## **Section 18.13 Fees**

The Marion Township Board shall establish by resolution a fee schedule to defray costs, which may include but not be limited to inspection, plan review, administration, and enforcement of this section. Before final approval, any costs incurred by the Township shall be paid by the applicant. The applicant may also be required to post a cash Escrow Account according to Section 4.07 of the Marion Township Zoning Ordinance.

## **ARTICLE XIX: NONCONFORMING USES OF LAND AND STRUCTURES**

### **Section 19.01 Intent and Purpose**

It is the intent of this Article to permit legal nonconforming lots, structures or uses to continue until they are removed, but not to encourage their survival.

It is recognized that there exists within the districts established by the Ordinance and subsequent amendments, lots, structures and uses of land and structures which were lawful before this Ordinance was passed or amended, which would be prohibited, regulated or restricted under the terms of this Ordinance.

### **Section 19.02 Nonconforming Lots**

In any district in which single-family dwellings are permitted, notwithstanding limitations imposed by other provisions of this Ordinance, a single-family dwelling and customary accessory buildings may be erected on any single lot of record recorded with the Register of Deeds at the effective date of adoption or amendment of this Ordinance. This provision shall apply even though such lot fails to meet the requirements for area or width, or both, that are generally applicable in the district; provided that yard dimensions, setbacks and other requirements not involving area or width, or both, shall conform to the regulations for the district in which such lot is located, unless a yard requirement variance is obtained through approval of the Zoning Board of Appeals. However, if two or more lots or combinations of lots and portions of lots with continuous frontage in single ownership are of record at the time of passage or amendment of this Ordinance, and if all or part of the lots do not meet the requirements established for lot width and area, the lands involved shall be considered to be an undivided parcel for the purposes of this Ordinance, and no portion of said parcel shall be used or divided in a manner which diminishes compliance with lot width and area requirements established by this Ordinance.

### **Section 19.03 Nonconforming Uses of Land**

Where, at the effective date of adoption or amendment of this Ordinance, a lawful use of land exists that is made no longer permissible under the terms of this Article as enacted or amended, such use may be continued, so long as it remains otherwise lawful, subject to the following provisions:

- A. No such nonconforming use shall be enlarged or increased, nor extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this Ordinance.
  
- B. No such nonconforming use shall be moved in whole or in part to any other portion of the lot or parcel occupied by such use at the effective date of adoption or amendment of this Ordinance.
  
- C. See also Section 4.03.C 6.

**Section 19.04      Nonconforming Structures**

Where a lawful structure exists at the effective date of adoption or amendment of this Ordinance that could not be built under the terms of this Ordinance by reason of restrictions on area, lot coverage, height, yards or other characteristics of the structure or location on the lot, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions:

- A. No such structure may be enlarged or altered in a way which increases its nonconformity, but the use of a structure and/or the structure itself may be changed or altered to a use permitted in the district in which it is located, provided that all such changes are also in conformance with the requirements of the district in which it is located. Furthermore, any nonconforming use may be extended throughout any parts of a building which were manifestly arranged or designed for such use, and which existed at the time for adoption or amendment of this Article, but no such use shall be extended to occupy any land outside such building.
  
- B. Should such structure be destroyed by any means to an extent of more than sixty (60) percent of the assessed value of the structure at the time of destruction, it shall not be reconstructed except in conformity with the provisions of this Article.

- C. Should such structure be moved for any reason for any distance whatever, it shall thereafter conform to the regulations for the district in which it is located after it is moved.
  
- D. Any structure, or structure and land in combination, in or on which a nonconforming use is superseded by a permitted use, shall thereafter conform to the regulations for the district in which such structure is located, and the nonconforming use may not thereafter be resumed.
  
- E. Where nonconforming use status applies to a structure and premises in combination, removal or destruction of the structure shall eliminate the nonconforming status of the land.

**Section 19.05      Change in Nonconforming Uses**

Irrespective of other requirements of this Article, if no structural alterations are made, any nonconforming use of a structure and premises may be changed to another nonconforming use of the same or a more restricted classification, provided that the Zoning Board of Appeals, either by general rule or by making findings in the specific case, shall find that the proposed use is equally appropriate or more appropriate to the district than the existing nonconforming use. In permitting such change, the Zoning Board of Appeals may require appropriate conditions and safeguards in accord with the purpose and intent of this Article. Where a nonconforming use of a structure, land or structure and land in combination is hereafter changed to a more restrictive classification, it shall not thereafter be changed to a less restricted classification.

**Section 19.06      Repairs and Maintenance**

On any building devoted in whole or in part to any nonconforming use, work may be done in any period of twelve (12) consecutive months on ordinary repairs, or on repair or replacement of nonbearing walls, fixtures, wiring or plumbing to an extent not exceeding twenty-five (25) percent of the assessed value of the building, provided that the cubic content of the building as it existed at the time of passage or amendment of this Article shall not be increased. Nothing in this Article shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by any official charged with protecting the public safety, upon order of such official.

## **Section 19.07      Change of Tenancy or Ownership**

As long as there is no change in the character or nature of the nonconforming use, a change of tenancy or ownership is allowed.

## **Section 19.08      District Changes**

Whenever the boundaries of a district shall be changed so as to transfer an area from one district to another district classification, the provisions of this Section shall also apply to any existing uses that become nonconforming as a result of the boundary changes.

## **Section 19.09      Hardship Cases**

Nonconforming buildings or structures may be structurally changed, altered or enlarged with the approval of the Zoning Board of Appeals when the Zoning Board of Appeals finds that the request is a case of exceptional hardship in which failure to grant the relief requested would unreasonably restrict continued use of the property or would restrict valuable benefits that the public currently derives from the property as used in its nonconforming status, EXCEPT that any approval for structural changes, alteration or enlargement may be granted only with a finding by the Zoning Board of Appeals that approval will not have an adverse affect on surrounding property and that it will be the minimum necessary to relieve the hardship.

## **Section 19.10      Illegal Nonconforming Uses**

Nonconforming uses of structures or land existing at the effective date of this Ordinance that were established without approval of zoning compliance or without a valid building permit or those nonconforming uses which cannot be proved conclusively as existing prior to the effective date of this Ordinance, or the prior Ordinance enacted January 11, 1977, shall be declared illegal nonconforming uses and are not entitled to the status and rights accorded legally established nonconforming uses.

## **Section 19.11      Permits**

Permits for construction on, expansion of, or substitution of nonconforming lots, uses or structures require a zoning permit pursuant to Section 4.03 C 6. Other permits and approvals may also be required.

## **ARTICLE XX: AMENDMENTS**

### **Section 20.01 Purpose and Intent**

The purpose of the Zoning Ordinance is for establishing and maintaining sound, stable and desirable development within the territorial limits of the Township. It is not intended that the Zoning Ordinance be amended except to correct an error, because of the changed or changing conditions in a particular area in the Township or, to conform with changes to the Master Plan and/or other ordinances of the Township, to meet public need for new or additional land uses in areas so contemplated by the Master Plan, or to further protect the environment, neighborhoods, public infrastructure or other public investment in the Township.

### **Section 20.02 Initiation of Amendments**

Only the Township board may approve amendments to the Zoning Ordinance. Proposals to amend text of the Ordinance or to rezone one (1) or more parcels of land, hereinafter referred to as a rezoning, may be initiated by the Township Board on its own motion, by the Planning Commission, or by petition of one (1) or more property owners of Marion Township, or by one (1) or more persons acting on behalf of and with the written consent of, a property owner(s) of Marion Township. All amendment proposals shall follow the procedure found in Section 20.03 of this Article.

### **Section 20.03 Procedure**

**Application:** A petitioner shall submit a completed and signed application to amend the Zoning Ordinance, along with the appropriate fees, to the Zoning Administrator in the following manner:

- 1) **Text Amendment:** If a petition involves a request for a change in the text of the Zoning Ordinance, the petitioner shall submit the following information:
  - a) A detailed statement of the proposed amendment, 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 petitioner.
  - c) Reasons for the proposed amendment.
  - d) Upon receipt of above information the Zoning Administrator shall review the application form to ensure it is complete. Any application not properly filed or complete shall be returned to the applicant. Complete applications shall be transmitted to the Planning Commission for its review.
  - e) Note that the Planning Commission or Township Board shall not be required to complete an application as noted in Section 20.03 A of this Article for text amendments or rezoning.
- 2) **Rezoning:** If the application is to rezone one (1) or more parcels of land, the petitioner shall submit the following information:
- a) A legal description of the property, including a street address and tax code number(s).
  - b) A scaled map of the property, correlated with the legal description, and clearly showing the property's location.
  - c) The name and address of the petitioner, the record owner and all other parties claiming an interest in said property.
  - d) The petitioner's interest in the property, and if the applicant is not the owner, the name and address of the record owner(s) and the record owner(s) and other parties signed consent to the petition. The consent of mortgagees, lienors, and similar such parties shall not be required.
  - e) Date of filing with the Zoning Administrator.
  - f) Signature(s) of petitioner(s) and owner(s) certifying the accuracy of the required information.
  - g) The desired change and reasons for such change.
  - h) Note: If a rezoning request involves more than one (1) parcel of land, a separate application shall be required for each non-contiguous parcel.
- 3) **Conditional Rezoning:** If the application is to rezone one (1) or more parcels of land, the petitioner shall submit the following information:
- a) The required application and submittal information for considering a rezoning request with conditions shall be the same as that for considering rezoning requests made without any offer of condition except as modified by the requirements in Section 20.06.

**Review Procedure.** All proposed text amendments, rezoning or conditional rezoning shall be reviewed in the following manner:

## **Section 20.04      Text Amendments**

- 1) **Planning Commission, First Review:** Following their review of a proposed text amendment(s), the Planning Commission shall schedule a public hearing and provide notice as provided herein. At the conclusion of the public hearing, the Secretary of the Planning Commission shall submit to the Township Board the proposed text amendment(s), the minutes of the public hearing including all public comments at which the proposed text amendment was considered, and any other supporting information.
  
- 2) **Township Board, First Review:** The Township Board shall review the proposed text amendment(s) and supporting information. Following their review, the Township Clerk shall refer the proposed text amendment(s) to the Planning Commission for their consideration, as well as a written report of the Board's findings. The report shall indicate the Township Board's position on the proposed text amendment(s). Note that the report may instruct the Planning Commission to make specific changes to a proposed text amendment(s).
  
- 3) **Planning Commission, Second Review:** The Planning Commission shall review the report from the Township Board, supporting information, and make changes if requested by the Board. In reviewing a proposed text amendment(s), the Planning Commission shall identify and evaluate all factors relevant to the application, and shall report its findings in full along with its recommendations for disposition of the application, to the Township Board within a period of sixty (60) days.
  
- 4) Upon receipt of the report from the Township Board, the Planning Commission shall submit the proposed text amendment to the Livingston County Department of Planning for review and recommendation. If the recommendation of the Livingston County Department of Planning has not been received by the Township within thirty (30) days, it shall be conclusively presumed that the County has waived its right for review and recommendation.
  
- 5) **Action of the Township Board:** Upon receipt of a recommendation on a proposed text amendment(s) from the Planning Commission, the Township Board shall at any regular meeting or at any special meeting called for that purpose, vote upon the adoption of the proposed text amendment(s). Pursuant to the Michigan Zoning Enabling Act, Public Act 110 of 2006, as amended, the Township Board may refer proposed text amendment(s) to the Planning Commission for consideration and comment, which shall have thirty (30) days from and after such referral in which to make further recommendation to the Board, after which the Township Board shall take such action as it determines. In the event that an application is referred back to the Planning Commission, the Township Board shall make specific mention of its objections of the Planning Commission's findings and recommendations.

## **Section 20.05      Rezoning**

- 1) **Planning Commission, First Review:** Following its review of a proposed rezoning request, the Planning Commission shall schedule a public hearing and provide notice as provided herein. At the conclusion of the public hearing, the Planning Commission shall submit the proposed rezoning to the Livingston County Department of Planning for review and recommendation. If the recommendation of the Livingston County Department of Planning has not been received by the Township within thirty (30) days, it shall be conclusively presumed that the County has waived its right for review and recommendation.
  
- 2) Following the public hearing, the Planning Commission shall identify and evaluate all factors relevant to the application, and shall report its findings in full along with its recommendations for disposition of the application, to the Township Board within a period of sixty (60) days. The matters to be considered by the Planning Commission shall include, but shall not be limited to the following:
  - a) What, if any, identifiable conditions related to the application have changed which justify the proposed rezoning?
  
  - b) What is the impact of the rezoning on the ability of the Township and other governmental agencies to provide adequate public services and facilities, and/or programs that might reasonably be required in the future if the proposed rezoning is approved?
  
  - c) Does the requested rezoning adversely affect environmental conditions, or the value of the surrounding property?
  
  - d) Does the petitioned district change generally comply with the adopted Township Master Plan?
  
  - e) Can the property in question be put to a reasonable economic use in the zoning district in which it is presently located?
  
- 3) **Findings of fact:** All findings of fact shall be made a part of the public records of the meetings of the Planning Commission. The Planning Commission shall transmit its findings of fact to the Township Board.
  
- 4) **Outside Agency Review:** In determining the above-mentioned findings of fact the Planning Commission may solicit information and testimony from officials of, but not limited to, the following agencies: Livingston County Health Department, Livingston County Road Commission, Livingston County Drain Commission, any Livingston County School District affected, and Livingston County Planning Commission.
  
- 5) **Action of the Township Board:** Upon receipt of a recommendation on a proposed rezoning from the Planning Commission, the Township Board shall at any regular meeting or at any special meeting called for that purpose, consider said findings of fact and recommendation and vote upon the adoption of the proposed rezoning. Pursuant to the Michigan Zoning Enabling Act, Public Act 110 of 2006 as amended, the Township Board may refer any proposed rezoning to the Planning Commission for consideration and comment, which shall have thirty (30) days from and after such referral in which to make further recommendation to the Board, after which the Township Board shall take such action as it determines. In the event that an application is referred back to the Planning Commission, the Township Board shall make specific mention of its objections to the Planning Commission's findings and recommendations.

- 6) The Township Board shall not approve any proposed text amendment(s) or rezoning until after a public hearing has been conducted and the Planning Commission has provided the Township Board its recommendation.

## **Section 20.06      Conditional Rezoning**

- 1) It is recognized that there are certain instances where it would be in the best interests of the Township, as well as advantageous to property owners seeking a change in zoning boundaries, if certain conditions could be offered by property owners as part of a request for a rezoning. It is the Michigan Zoning Enabling Act (MZEA) (MCL) 125.3405), by which an owner seeking a rezoning may voluntarily propose conditions regarding the use and/or development of land as part of the rezoning request.

Therefore, as an alternative to a rezoning amendment as described in Section 20.03 #2 of this Ordinance, Marion Township may allow conditional rezoning to help ensure the proper use of land and natural resources and to allow for a more flexible approach to the rezoning process in accordance with the Zoning Enabling Act (PA 110 of 2006 as amended). If a property owner submits an offer for conditional rezoning as provided within this section then the procedure for the proposed conditional rezoning of the land shall follow the standards and procedures as noted below.

The amendment procedure for a conditional rezoning shall follow the same procedure as a traditional rezoning amendment pursuant to Article XX Section 20.03 #2 of this Ordinance except as modified by this section.

- a) An owner of land may voluntarily offer in writing conditions relating to the use and/or development of land for which a rezoning is requested. This offer may be made either at the time the application for rezoning is filed or may be made at a later time during the rezoning process.
- b) The required application and process for considering a rezoning request with conditions shall be the same as that for considering rezoning requests made without any offer of conditions, except as modified by the requirements of this Section.
- c) The owner's offer of conditions may not purport to authorize uses or developments not permitted in the requested new zoning district.
- d) Any use or development proposed as part of an offer of conditions that would require a special land use permit under the terms of this Ordinance may only be commenced if a special land use permit for such use or development is ultimately granted in accordance with the provisions of this Ordinance.
- e) Any use or development proposed as part of an offer of conditions that would require a variance under the terms of this Ordinance may only be commenced if a variance for such use or

development is ultimately granted by the Zoning Board of Appeals in accordance with the provisions of this Ordinance.

- f) Any use or development proposed as part of an offer of conditions that would require site plan approval under the terms of this Ordinance may only be commenced if site plan approval for such use or development is ultimately granted in accordance with the provisions of this Ordinance.
- g) The offer of conditions may be amended during the process of rezoning consideration provided that any amended or additional conditions are entered voluntarily by the owner. An owner may withdraw all or part of its offer of conditions any time prior to final rezoning action of the Township Board provided that, if such withdrawal occurs subsequent to the Planning Commission's public hearing on the original rezoning request, then the rezoning application shall be referred to the Planning Commission for a new public hearing with appropriate notice and a new recommendation.

### **Planning Commission Review**

The Planning Commission, after public hearing and consideration of the factors for rezoning set forth in Section 20.05 2 a thru e, of this Ordinance, may recommend approval, approval with recommended changes or denial of the rezoning; provided, however, that any recommended changes to the offer of conditions are acceptable to and thereafter offered by the owner.

### **Township Board Review**

After receipt of the Planning Commission's recommendation, the Township Board shall deliberate upon the requested rezoning and may approve or deny the conditional rezoning request. The Township Board's deliberations shall include, but not be limited to, a consideration of the factors for rezoning set forth in in Section 20.05 2 a thru e of this Ordinance. If the Township Board considers amendments to the offer of proposed conditions are acceptable to and thereafter offered by the owner, then the Township Board may, in accordance with Section 401 of the MZEA (MCL 125.3401), refer such amendments to the Planning Commission for a report thereon within a time specified by the Township Board and proceed thereafter in accordance with said statute to deny or approve the conditional rezoning with or without amendments.

### **Approval**

- 1) If the Township Board finds the rezoning request and offer of conditions acceptable, the offered conditions shall be incorporated into a formal written Statement of Conditions acceptable to the owner and conforming in form to the provisions of this Section. The Statement of Conditions shall be incorporated by attachment or otherwise as an inseparable part of the Ordinance adopted by the Township Board to accomplish the requested rezoning.

2) The Statement of Conditions shall:

Be in a form recordable with the Livingston County Register of Deeds or, in the alternative, be accompanied by a recordable Affidavit or Memorandum prepared and signed by the owner giving notice of the Statement of Conditions in a manner acceptable to the Township Board.

- a) Contain a legal description of the land to which it pertains.
  - b) Contain a statement acknowledging that the Statement of Conditions runs with the land and is binding upon successor owners of the land **or** contain a statement acknowledging the property reverts to its former zoning classification.
  - c) Incorporate by attachment or reference any diagram, plans or other documents submitted or approved by the owner that are necessary to illustrate the implementation of the Statement of Conditions. If any such documents are incorporated by reference, the reference shall specify where the document may be examined.
  - d) Contain a statement acknowledging that the Statement of Conditions or an Affidavit or Memorandum giving notice thereof may be recorded by Marion Township with the Livingston County Register of Deeds.
  - e) Contain the notarized signatures of all of the owners of the subject land preceded by a statement attesting to the fact that they voluntarily offer and consent to the provisions contained within the Statement of Conditions.
- 3) Upon the rezoning taking effect, the Zoning Map shall be amended to reflect the new zoning classification along with a designation that the land was rezoned with a Statement of Conditions. The Township Clerk shall maintain a listing of all lands rezoned with a Statement of Conditions.
- 4) The approved Statement of Conditions or an Affidavit or Memorandum giving notice thereof shall be filed by Marion Township with the Livingston County Register of Deeds. The Township Board shall have authority to waive this requirement if it determines that, given the nature of the conditions and/or the time frame within which the conditions are to be satisfied, the recording of such a document would be of no material benefit to Marion Township or any subsequent owner of the land.
- 5) Upon the rezoning taking effect, the use of the land so rezoned shall conform thereafter to all of the requirements regulating use and development within the new zoning district as modified by any more restrictive provisions contained in the Statement of Conditions.

### **Compliance with Conditions**

Any person who establishes a development or commences a use upon land that has been rezoned with conditions shall continuously operate and maintain the development or use in compliance with all of the conditions set forth in the Statement of Conditions. Any failure to comply with a condition contained within

the Statement of Conditions shall constitute a violation of this Zoning Ordinance and be punishable accordingly. Additionally, any such violation shall be deemed a nuisance per se and subject to judicial abatement as provided by law.

No permit or approval shall be granted under this Ordinance for any use or development that is contrary to an applicable Statement of Conditions.

### **Time Period for Establishing Development of Use**

Unless another time period is specified in the Ordinance rezoning the subject land, the approved development and/or use of the land pursuant to building and other required permits must be commenced upon the land within 18 months after the rezoning took effect and thereafter proceed diligently to completion. This time limitation may upon written request be extended by the Township Board if (1) it is demonstrated to the Township Board's reasonable satisfaction that there is a strong likelihood that the development and/or use will commence within the period of extension and proceed diligently thereafter to completion and (2) the Township Board finds that there has not been a change in circumstances that would render the current zoning with State of Conditions incompatible with other zones and uses in the surrounding area or otherwise inconsistent with sound zoning policy.

### **Reversion of Zoning**

If approved development and/or use of the rezoned land does not occur within the time frame specified under "Time Period for Establishing Development of Use" above, then the land shall revert to its former zoning classification as set forth in MCL 125.3405. The reversion process shall be initiated by the Township Board requesting that the Planning Commission proceed with consideration of rezoning of the land to its former zoning classification. The procedure for considering and making this reversionary rezoning shall thereafter be the same as applies to all other rezoning requests.

### **Subsequent Rezoning of Land**

When land that is rezoned with a Statement of Conditions is thereafter rezoned to a different zoning classification or to the same zoning classification but with a different or no Statement of Conditions, whether as a result of a reversion of zoning pursuant to "Reversion of Zoning" above, or otherwise, the Statement of Conditions imposed under the former zoning classification shall cease to be in effect. Upon the owner's written request, the Township Clerk shall record with the Livingston County Register of Deeds a notice that the Statement of Conditions is no longer in effect.

### **Amendment of Conditions**

- 1) During the time period for commencement of an approved development or use specified pursuant to 'Time Period for Establishing Development of Use' above or during any extension thereof granted by the Board of Trustees, the Township shall not add to or alter the conditions in the Statement of Conditions.
- 2) The Statement of Conditions may be amended thereafter in the same manner as was prescribed for the original rezoning and Statement of Conditions.

### **Township Right to Rezone**

Nothing in the Statement of Conditions nor the provisions of this Section shall be deemed to prohibit the Township from rezoning all or any portion of land that is subject to a Statement of Conditions to another zoning classification. Any rezoning shall be conducted in compliance with this Ordinance and the MZEA (MCL 125.3101, et seq.)

### **Failure to Offer Conditions**

- 1) The Township shall not require an owner to offer conditions as a requirement for rezoning. The lack of an offer of conditions shall not affect an owner's rights under this Ordinance.
- 2) In reviewing an application for the rezoning of land, whether the application is made with or without an offer of conditions, factors that should be considered by the Planning Commission and the Board of Trustees include, but are not limited to, the following:
  - a) Whether the rezoning is consistent with the policies and uses proposed for that area in the Township's Master Land Use Plan;
  - b) Whether all of the uses allowed under the proposed rezoning would be compatible with other zones and uses in the surrounding area;
  - c) Whether any public services and facilities would be significantly adversely impacted by a development or use allowed under the requested rezoning; and
  - d) Whether the uses allowed under the proposed rezoning would be equally or better suited to the area than uses allowed under the current zoning of the land.

### **Notice of Hearing**

- 1) The Planning Commission shall hold at least one public hearing for any proposed text amendment or rezoning within forty-five days of the date of filing the completed application. The Township Clerk or Zoning Administrator shall give notice of the public hearing in the following manner:
- 2) One notice shall be published in a newspaper of general circulation in the Township not less than fifteen days before the public hearing.
- 3) Notices shall do all of the following:
  - a) Describe the nature of the request.
  - b) Indicate the property that is the subject of the request. The notice shall include a listing of all existing street addresses within the property. Street addresses do not need to be created and listed if no such addresses currently exist within the property. If there are no street addresses, other means of identification may be used.
  - c) State when and where the public hearing will be considered.
  - d) Indicate when and where written comments will be received concerning the request.
  - e) Indicate the places and times at which the proposed text amendment or rezoning may be examined.
- 4) For any proposed rezoning, a notice shall also be delivered by mail, or personally to
  - a) The applicant and owner(s) of the property proposed for rezoning.
  - b) All persons to whom real property is assessed within three hundred feet of the boundary of the proposed rezoned property.
  - c) To the occupants of all structures in and within three hundred feet of the property proposed to be rezoned regardless of whether the property or occupant is located within the Township. If the name of the occupant is not known, the term "occupant" may be used in making notification.
  - d) Each electric, gas, pipeline public utility company, each telecommunication service provider, each railroad operating within the district or zone affected, and the airport manager of each airport, that registers its name and mailing address with the Planning Commission for the purpose of receiving the notice.
- 5) If the notice is delivered by mail, the Township shall maintain an affidavit of mailing.
- 6) Requirements of written notice to property owners shall not apply to comprehensive revision to the Zoning Ordinance.

## **Section 20.07      Conformance to Court Decree**

Any amendment for the purpose of conforming a provision of the Zoning Ordinance to the decree of a court of competent jurisdiction may be adopted by the Township Board and the notice of the adopted amendment published without referring the amendment to any other board or agency.

## **Section 20.08          Publication of Notice of Ordinance Amendments**

- 1) Following adoption of subsequent amendments to the Zoning Ordinance by the Township Board, one notice of adoption shall be published in a newspaper of general circulation in the Township within fifteen days after adoption. The notice shall include the following information:
  - a) Either a summary of the regulatory effect of the amendment including the geographic area affected, or the text of the amendment.
  - b) The effective date of the amended Ordinance.
  - c) The place and time where a copy of the amended Ordinance may be purchased or inspected.
- 2) A copy of the notice shall also be mailed to the airport manager of any airport that received a notice as described herein.

## **Section 20.09          Resubmittal**

No application for a rezoning which has been denied by the Township Board shall be resubmitted for a period of one year from the date of the last denial, except on grounds of newly-discovered evidence or proof of changed conditions found upon inspection by the Township Board to be valid.

## **Section 20.10          Comprehensive Review of Zoning Ordinance**

The Planning Commission shall, from time to time at intervals of not more than five years, examine the provisions of this Zoning Ordinance and the location of Zoning district boundary lines and shall submit a report to the Township Board recommending changes and amendments, if any, which are deemed to be desirable in the interest of public health, safety and general welfare.

## **Section 20.11          Fees**

An application fee shall be established by resolution of the Township Board. If the applicant is the Planning Commission or Township Board, no fee shall be charged.

**ARTICLE XXI:            INTERPRETATION, SEVERABILITY, VESTED RIGHT, REPEAL,  
   AND EFFECTIVE DATE**

**Section 21.01            Interpretation**

In interpreting and applying the provisions of this Ordinance, they shall be held to the minimum requirements adopted for the promotion of the public health, safety, comfort, convenience, prosperity and general welfare. Unless specifically provided for, it is not intended by this Ordinance to repeal, abrogate, annul or in any way to impair or interfere with the existing and unrepealed provision of law or ordinance or any rules, regulations or permits previously adopted or issued pursuant to law relating to the use of building or land, provided, however, that where this Ordinance imposes a greater restriction upon the use of buildings or structures or land or upon the courtyards or other open spaces than are imposed or required by such existing provisions of law or ordinance or by such rules, regulations or permits, the provisions of this Ordinance shall control.

**Section 21.02            Severance Clause**

Sections of this Ordinance shall be deemed to be severable and should any section, paragraph or provision thereof be declared by the courts to be unconstitutional or invalid, such holdings shall not affect the validity of this Ordinance as a whole or any other part thereof, other than the part so declared to be unconstitutional or invalid.

Further, if any court shall declare invalid the application of any provision of this Ordinance to a particular parcel, lot use, building or structure, such ruling shall not affect the application of said provision to any other parcel, lot use, building or structure not specifically included in said ruling.

**Section 21.03            Vested Right**

Nothing in this Ordinance should be interpreted or construed to give rise to any permanent vested rights in the continuation of any particular use, district, zoning classification or any permissible activities therein; and they are hereby declared to be subject to subsequent amendment, change or modification as may be necessary to the preservation or protection of public health, safety and welfare.

## **Section 21.04      Repeal**

All ordinances and amendments thereto enacted and/or adopted by the Township by virtue of the Michigan Zoning Enabling Act, PA 110 of 2006 as amended, and all ordinances and parts of ordinances inconsistent with the provisions of this Ordinance are hereby repealed as of the effective date of this Ordinance. The repeal of existing ordinances or parts of ordinances and their amendments does not affect or impair any act done, offense committed or right accrued or acquired, or liability, penalty, forfeiture or punishment incurred prior to the time it was enforced, prosecuted or inflicted.

## **Section 21.05      Effective Date**

This ordinance shall take effect following adoption and upon publication in accordance with the provisions and procedures of the Michigan Zoning Enabling Act, PA 110 of 2006 as amended.