

**WHITE RIVER TOWNSHIP
(IN MUSKEGON COUNTY)
ZONING ORDINANCE**

January 15, 2019

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CHAPTER 1 TITLE AND PURPOSE

SECTION 1.01 TITLE

This Ordinance shall be known and may be cited as the “White River Township Zoning Ordinance.”

SECTION 1.02 PURPOSE

This Ordinance is established for the following purposes:

- A. To promote and protect the public health, safety, and general welfare.
- B. To protect the stability of the agricultural economy, the rural character and open space in residential development, and the viability of nonresidential areas within White River Township and to promote the orderly and beneficial development of these areas.
- C. To provide adequate light, air, privacy and convenience of access to property.
- D. To regulate the intensity of use of land and lot areas and determine the area of open spaces surrounding buildings and structures necessary to provide adequate space and to protect the public health.
- E. To lessen and avoid congestion on the highways and roads.
- F. To prevent the overcrowding of land and undue concentration of buildings and structures, so far as possible and appropriate, in each zoning district, by regulating the use and bulk of buildings in relation to the land surrounding them.
- G. To protect the environment and conserve the expenditure of funds for public improvements and services.
- H. To conserve lands, waters and other natural resources for their most suitable purposes.
- I. To reduce hazards to life and property from flooding, air, and water pollution.
- J. To secure safety from fire and other dangers.
- K. To facilitate economical development of educational, recreational and other public facilities; to ensure appropriate locations and relationships of land uses; to ensure proper development of housing and commerce; and to enhance the social and economic stability of White River Township.

- L. To help implement the White River Township Master Plan, as amended.

SECTION 1.03 LEGISLATIVE INTENT

Zoning districts and regulations in this Ordinance each have a defined purpose and are based on the White River Township Master Plan to provide a supporting foundation. While the regulations control the use of properties, the Ordinance is also intended to provide landowners with a range of choices, flexibility, and options for development.

SECTION 1.04 SCOPE AND COVERAGE

- A. Except as otherwise provided for in this Ordinance, every building and structure erected; every use of any lot, building, or structure; every lot or parcel created; every structural alteration or relocation of an existing building or structure; 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 and shall comply fully to this Ordinance.
- B. In its interpretation and application, the provisions of this Ordinance shall be held to be minimum requirements adopted for the promotion of the public health, safety, comfort, convenience, or general welfare. It is not intended by this Ordinance to impair or interfere with any other existing provision of law or ordinance. However, where this Ordinance imposes a greater restriction than is required by another ordinance or by rules, regulations, or permits, the provisions of this Ordinance shall control.
- C. Except as otherwise noted in this Ordinance, nothing in this Ordinance shall be interpreted or construed to give rise to any permanent vested right in the continuation of any particular use, district, zoning classification, or any permissible activities therein; and all rights are hereby declared to be subject to such subsequent amendment, change or modification hereof as may be necessary for the preservation or protection of public health, safety, and welfare.
- D. The right to continue a land use or activity or construct a building or structure which is either permitted by this Ordinance or lawfully established as a nonconformity shall be vested with the property rather than the owner. No rights shall be terminated solely for reasons of transfer of ownership. The right to continue a lawful land use or activity shall transfer automatically upon the conveyance of the property unless terminated under the provisions of this Ordinance.
- E. All land development or use specifically listed as a "Permitted Use" in the Districts contained in this Ordinance shall be allowed when determined to be in accordance with the regulations of the District involved and also in compliance with all

provisions of this Ordinance and all other applicable laws, regulations or ordinances having jurisdiction over the proposed use of land.

- F. All land development or use specifically listed under the heading of “Special Land Use” in the Districts contained in this Ordinance shall also be conducted in accordance with the requirements of Chapter 16 of this Ordinance.
- G. Uses, activities, buildings, or structures not specifically mentioned or allowed in this Ordinance are prohibited.
- H. Where two or more provisions, requirements, or standards of this Ordinance conflict, the stricter one shall govern.
- I. All uses, structures, and buildings located within an overlay district under this Ordinance shall comply with both the requirements of the overlay district as well as the underlying zoning district.

CHAPTER 2 DEFINITIONS AND INTERPRETATION RULES

SECTION 2.01 RULES APPLYING TO TEXT

- A. If the meaning of a provision of this Ordinance is unclear in a particular circumstance, then the individual or body charged with interpreting or applying the Ordinance shall construe the provision to carry out the intent of the Ordinance, if the intent can be discerned from other provisions of this Ordinance or law.
- B. The word “shall” is always mandatory and not discretionary. The word “may” is permissive.
- C. All words and phrases shall be construed and understood according to the common preferred use of the language; but technical words and phrases that may have acquired a peculiar and appropriate meaning in the law shall be construed and understood according to that peculiar and appropriate meaning.
- D. The particular shall control the general. For terms used in this Ordinance, the use of a general term shall not be taken to be the same as the use of any other specific term. For example, a “drug store,” as used in this Ordinance, shall not be interpreted to be the same as a “retail store,” since each is listed as a separate and distinct use.
- E. Words used in the present tense shall include the future; and words used in the singular number shall include the plural; and the plural the singular, unless the context clearly indicates the contrary.
- F. A “building” or “structure” also includes any part thereof.
- G. The word “person” includes an individual, a corporation, a partnership, a limited liability company or corporation, an incorporated association, or any other similar entity. A masculine term shall include the feminine version of the term and vice versa.
- H. Unless the context clearly indicates the contrary, the conjunctions noted below shall be interpreted as follows.
 - 1. “And” indicates that all connected items, conditions, provisions, or events shall apply.
 - 2. “Or,” indicates that the connected items, conditions, provisions or events may apply singularly or in any combination.
 - 3. “Either...or” indicates that the connected items, conditions, provisions or events shall apply singularly but not in combination.

- I. In computing the number of days, the first day is excluded and the last day is included. If the last day of any period during which an application, filing, or request is required to be made to the Township or other governmental agency 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 2.02 DEFINITIONS – A

ACCESSORY BUILDING

Except as otherwise specified by this Ordinance, a building or portion of a building supplementary and/or subordinate to a main building on the same lot occupied by, used, or devoted exclusively to an accessory use. When an accessory building is attached to a main building in an integral and substantial manner, such as a common wall or roof, an integrated wall or substantial roof section, the accessory building shall be considered a part of the main building. However, a *de minimus* (slight or minimal) connection between an accessory building and a main building such as a roof (without substantial walls), covered walkway, or other minimal connection (particularly where there is a substantial distance between the buildings) shall not make the accessory building a part of the main building.

ACCESSORY USE

A use naturally and normally incidental and subordinate to, and devoted exclusively to, the principal use of the land or building.

ADULT USES

The term shall include adult bookstore, adult motion picture theater, adult motel, adult nightclub, and massage parlor. These terms and terms related to these definitions, as noted, shall have the following indicated meanings:

A. Adult Bookstore

An establishment having as a significant portion of its stock in trade books, films, DVDs, videotapes, computer items, magazines, and other periodicals or visual depictions which are distinguished or characterized by an emphasis on depicting or describing “Sexual Conduct” or “Specified Anatomical Areas.”

B. Adult Motion Picture Theater

An enclosed building used for presenting material distinguished or characterized by an emphasis on depicting or describing “Sexual Conduct” or “Specified Anatomical Areas.”

C. Adult Motel

A motel wherein material is presented which is distinguished or characterized by an emphasis on depicting or describing “Sexual Conduct” or “Specified Anatomical Areas.”

D. Adult Nightclub

A theater or other establishment, which features live performances by topless and/or bottomless dancers, “go-go” dancers, exotic dancers, strippers or similar entertainers, where these performances are distinguished or characterized by an emphasis on “Sexual Conduct” or “Specified Anatomical Areas.”

E. Massage Parlor

An establishment or business which provides the services of massage and body manipulation, including exercises, heat and light treatments of the body and all forms of physiotherapy, unless operated by a medical practitioner, professional physical therapist or chiropractor licensed by the State of Michigan. This definition does not include an athletic club, health club, school, gymnasium, reducing salon, spa or similar establishment where massage or similar manipulation of the human body is offered as an incidental or accessory service.

F. Sexual Conduct

Considered to be characterized by, but not limited to, the following acts:

1. Human genitals in a state of sexual stimulation or arousal;
2. Acts of human masturbation, sexual intercourse or sodomy; and
3. Fondling or other erotic touching of human genitals, pubic region, buttock, or female breast.

G. Specified Anatomical Areas

Considered to be defined by, but not limited to, the following areas:

1. Less than completely and opaquely covered: human genitals, pubic region, buttock, and female breast below a point immediately above the top of the areola; and
2. Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

AGRICULTURE

The use of land for tilling the soil, raising tree or field crops, or animal husbandry as a source of income.

ALLEY

A public way not more than twenty (20) feet in width which affords a secondary means of access to abutting property but not being intended for general traffic circulation.

ALTERATION

Any change, addition or modification to and in the construction or type of use of occupancy; any change in the supporting structural members of a building, such as walls, partitions, columns, poles, beams, posts, girders, or any change which may be referred to herein as “altered” or “reconstructed” or “modified.”

ANIMAL UNITS

Animal units are defined as listed in the U.S. Code of Federal Regulations (CFR) 40 Section 122, Appendix A, as provided below.

Animal Units	50	250	500	750	1,000
Animal Type¹	Number of Animals				
Slaughter and Feeder Cattle	50	250	500	750	1,000
Mature Dairy Cattle	35	175	350	525	700
Swine ²	125	625	1,250	1,875	2,500
Sheep and Lambs	500	2,500	5,000	7,500	10,000
Horses	25	125	250	375	500
Turkeys	2,750	13,750	27,500	41,250	55,000
Laying Hens or Broilers	5,000	25,000	50,000	75,000	100,000

¹ All other animal classes or types or sizes (e.g. nursery pigs) not in this table, but defined in the Michigan Right to Farm Act, Act 93 of 1981 of the Public Acts of Michigan, as amended, or described in Michigan Commission of Agriculture Policy, are to be calculated as one thousand (1,000) pounds live weight equals one (1) animal unit.

² Weighing over fifty-five (55) pounds.

ARCHITECTURAL FEATURES

Architectural features of a building shall include cornices, eaves, gutters, belt courses, sills, lintels, bay windows, chimneys and decorative ornaments.

AVERAGE GRADE

The average finished ground elevation at the center of all walls of a building established for the purpose of regulating the number of stories and the height of buildings. The building grade shall be the level of the ground adjacent to the walls of the building if the finished grade is level. If the ground is not entirely level, the grade shall be determined by averaging the elevation of the ground for each face of the building or structure being measured.

SECTION 2.03 DEFINITIONS – B

BANK

The rising ground bordering a watercourse, river, lake or reservoir.

BASEMENT OR CELLAR

A portion of a building having more than one-third (1/3) of its height below average grade.

BED AND BREAKFAST ESTABLISHMENT

A use within one detached single dwelling in which transient guests are provided a sleeping room, breakfast and access to bathing and lavatory facilities in return for payment.

BOARD OF APPEALS, or BOARD

The White River Township Zoning Board of Appeals. See also ZONING BOARD OF APPEALS, or BOARD.

BUILDABLE AREA

The buildable area of a lot is the space remaining after the minimum setback, line of sight and open space requirements of this Ordinance have been met.

BUILDING

An independent structure, either temporary or permanent, having a roof or canopy supported by columns, poles, posts, cantilever, walls, or any other support used for the enclosure, protection, shelter, or storage of persons, animals, objects, vehicles, or chattels, or carrying on business activities or other uses. When any portion thereof is completely separated from every other part thereof by separate walls from the ground up, and without openings, each portion of the building shall be deemed to be a separate building. A deck, porch, or overhang shall be considered part of the building. Temporary, movable, or portable sheds, storage structures, carports, and vehicle enclosure structures shall be considered buildings for purposes of setback requirements.

BUILDING HEIGHT

See “Height.”

BUILDING, MAIN

A building in which is conducted the principal use of the lot on which it is situated.

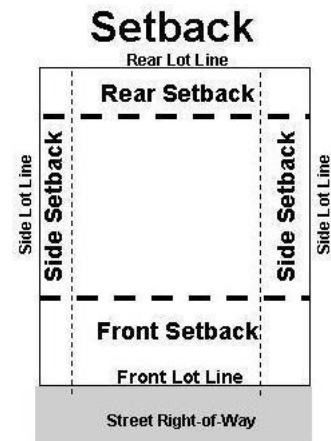
BUILDING PERMITS

A building permit is the written authority as issued by the Building Inspector on behalf of the Township permitting the construction, moving, alteration or use of a building in conformity with the provisions of this Ordinance and the Township's Building Code.

BUILDING SETBACK LINES

Lines marking the setback distance from the lot lines which establish the minimum permitted front, side, or rear yards (*i.e.*, areas with no buildings or structures) as required by this Ordinance.

- A. Front Building Setback Line. The line marking the setback distance from the front lot line which establishes the minimum front yard setback area. (NOTE: For lots with frontage on a body of water, the front building setback line may be measured in a different fashion as provided elsewhere in this Ordinance.)
- B. Rear Building Setback Line. The line marking the setback distance from the rear lot line which establishes the minimum rear yard setback area. (NOTE: For lots with frontage on a body of water, the rear building setback line may be measured in a different fashion as provided elsewhere in this Ordinance.)
- C. Side Building Setback Lines. Lines marking the setback distance from the side lot lines which establish the minimum side yard setback area.



SECTION 2.04 DEFINITIONS – C

CARPORT

A covered motor vehicle parking structure accessory to a principal building. It may be free standing or attached to another structure. A carport cannot exceed 1,000 square feet in area or one story in height. It must be entirely open on two or more sides except for structural supports. There can be no enclosed use above a carport. Any structure that does not meet the above definition must comply with all regulations relating to a garage.

CLINIC

A building or group of buildings where human patients are admitted for examination and treatment by more than one (1) professional, such as a physician, dentist, or the like, except that human patients are not lodged therein overnight.

COMMERCIAL

This term relates to the use of property in connection with the purchase, sale, barter, display, or exchange of goods, wares, merchandise or services or the maintenance of service offices or recreation or amusement enterprise or garage/basement sales operating more than twelve (12) days during any one (1) twelve (12) month period,

CONSERVATION EASEMENT

A legally binding agreement or document not to develop or alter a property, but to leave it “natural” permanently or for some designated very long time period. A conservation easement is similar to a deed restriction or restrictive covenant which prohibits certain uses of land. The property still belongs to the landowner, but the restrictions placed on the property apply to both the current landowner and upon subsequent landowners, Conservation easements shall not be used for the mooring, loading, launching, or other servicing of watercraft.

CONVALESCENT OR NURSING HOME

A home for the care of the aged or infirm, or a place of rest for those suffering bodily disorders, wherein persons are provided care for compensation. The convalescent or nursing home shall conform to, and qualify for, license under applicable State law.

SECTION 2.05 DEFINITIONS – D

DAY CARE

A facility, other than a private residence, receiving minor children or adults for care for periods of less than twenty-four (24) hours in a day, for more than two (2) weeks in any calendar year. Child care and supervision provided as an accessory use, while parents are engaged or involved in the principal use of the property, such as a nursery operated during church services or public meetings, or by a fitness center or similar operation, shall not be considered a Day Care Center.

A. Day Care Home, Family

A single family residence, occupied as such, in which care is provided for more than one (1) but less than (7) minor children or adults for periods of less than twenty-four (24) hours per day, unattended by a parent or legal guardian. Care for persons related by blood, marriage or adoption to a member of the family occupying the dwelling is excluded from this definition.

B. Day Care Home, Group

A single family residence, occupied as such, in which care is provided for at least seven (7) but not more than twelve (12) minor children or adults for periods of less than twenty-four (24) hours per day, unattended by a parent or legal guardian. Care for persons related by blood, marriage, or adoption to a member of the family occupying the dwelling is excluded from this definition.

C. Day Care Facility, Commercial

A nonresidential facility where care is provided for any number of children or adults for periods of less than twenty-four (24) hours per day, for more than two (2) weeks in any calendar year. Child care and supervision provided as an accessory use, while parents are engaged or involved in the principal use of the property, such as a nursery operated during church services or public meetings, or by a fitness center or similar operation, shall not be considered a Commercial Day Care.

DISTRICT

A zoning district pursuant to this Ordinance.

DRIVE-IN OR DRIVE-THROUGH FACILITIES

A commercial or other establishment whose character is significantly dependent on providing a driveway approach and service windows or facilities in order to serve patrons while in or momentarily stepped away from the vehicle.

DWELLING, OR DWELLING UNIT

A dwelling unit is any building or portion thereof having cooking facilities, which is occupied wholly as the home, residence or sleeping place of one (1) family, either permanently or transiently, but in no case shall a motor home, trailer coach, automobile chassis, tent, or portable building be considered a dwelling. In case of mixed occupancy, where a building is occupied in part as a dwelling unit, the part so occupied shall be deemed a dwelling unit for the purpose of this Ordinance and shall comply with the provisions thereof relative to dwellings.

A. Dwelling, Multiple Family

A building or portion thereof, used or designed for use as a residence for three (3) or more families living independently of each other and each doing their own cooking in the building. This definition includes three (3) family buildings, four (4) family buildings, and apartment houses.

B. Dwelling, Two-Family

A detached building used or designed for use exclusively by two (2) families living independently of each other and each doing their own cooking in the building. It may also be termed a duplex.

C. Dwelling, Single Family (Detached)

A detached building used or designed for use exclusively by one (1) family.

SECTION 2.06 DEFINITIONS – E

ERECTED

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

ESSENTIAL PUBLIC SERVICES

The phrase “essential public services” means the erection, construction, alteration, or maintenance by public utilities or municipal departments or commissions of underground, surface, or overhead gas, electrical, steam, or water transmission or distribution systems, collection, communication supply or disposal systems, including mains, drains, sewers, pipes, conduits, wires, cables, fire alarm boxes, traffic signals, hydrants, towers, poles, and other similar equipment, and accessory structures reasonably necessary for the furnishing of adequate service by public utilities or municipal departments or commissions or for the public health or general welfare, but not including cellular telephone or communications towers or buildings, nor including those buildings that are primarily enclosures or shelters of the above essential service equipment.

EXCAVATING

Excavating shall be the removal, digging, or moving of soil or earth below the average grade of the surrounding land and/or road grade, whichever shall be highest, except common household gardening.

SECTION 2.07 DEFINITIONS – F

FAMILY

- A. An individual or group of two (2) or more persons related by blood, marriage, or adoption, together with foster children and servants of the principal occupants, who are domiciled together as a single housekeeping unit in a dwelling unit; or
- B. A collective number of individuals domiciled together in one (1) dwelling unit whose relationship is of a continuing, nontransient domestic character and who

are cooking and living as a single nonprofit housekeeping unit. This definition shall not include any society, club, fraternity, sorority, association, half-way house, lodge, coterie, organization, group of students, or other individual whose domestic relationship is of a transitory or seasonal nature, is for an anticipated limited duration of a school term or during a period of rehabilitation or treatment, or is otherwise not intended to be of a permanent nature.

FARM

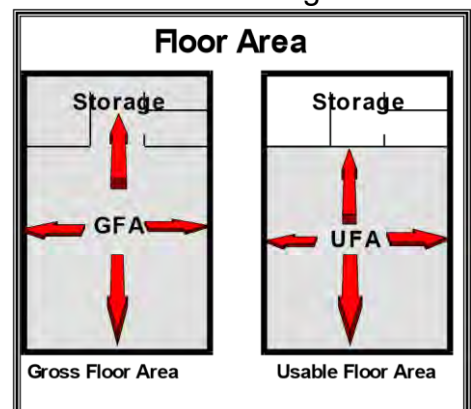
The use of land for cultivation or for raising of livestock for commercial purposes, including greenhouses, nurseries and orchards, but not including intensive livestock operations, stone quarries, or gravel, dirt, or sand removal operations.

FENCE

Any fence, partition, wall, structure or gate erected as a dividing structure, barrier or enclosure, and not part of a structure requiring a building permit.

FLOOR AREA, GROSS (GFA) (as associated with commercial or industrial uses)

- A. The sum of the gross horizontal area of the several floors of the building measured from the exterior faces of the exterior walls or from the center line of walls separating two (2) buildings. The gross floor area of a building shall include the basement floor area only if more than one-half (1/2) of the basement height is above finish lot grade. (See Basement.)



- B. Gross floor area shall not include attic space having headroom of seven (7) feet or less, or interior balconies or mezzanines. Any space devoted to off-street parking or loading shall not be included in floor area.

FLOOR AREA, USABLE (UFA)

That area used for or intended to be used for the sale of merchandise or services, or for use to serve patrons, clients, or customers; or area used in a dwelling unit for living purposes. Floor area which is used or intended to be used principally for the storage or processing of merchandise, for hallways, or for utilities shall be excluded from the computation of usable floor area. Measurement of usable floor area shall be the sum of the horizontal areas of the several floors of the building measured from the interior faces of the exterior walls. For a dwelling unit, the following areas shall not be considered part of the usable floor area: attics, garages, outdoor decks or porches, or basements (whether finished or not).

FORESTRY OPERATION

Any activity conducted on or directly pertaining to forestland and relating to growing, harvesting, or processing timber, including, but not limited to:

- Road and trail construction
- Harvesting, final and intermediate
- Pre-commercial thinning
- Reforestation
- Fertilization
- Prevention and suppression of diseases and insects
- Salvage of trees
- Control of vegetation
- Planting

“Forest Practice” shall not include preparatory work such as tree marking, surveying, and road flagging; clearing for construction purposes; or removal or harvest of incidental vegetation from forestlands, such as berries, ferns, greenery, mistletoe, herbs, mushrooms, and other products which cannot normally be expected to result in damage to forest soils, timber, or public resources.

FRONTAGE

Depending upon the context in this Ordinance, the portion of a lot abutting, adjoining, or having frontage on a body of water, road, or street. Please also see “Lot Width.”

SECTION 2.08 DEFINITIONS – G

GARAGE

A building used primarily for the storage of self-propelled vehicles for the use of the occupants of a lot on which the building is located.

SECTION 2.09 DEFINITIONS – H

HEIGHT

A. The maximum height limitations imposed on buildings and structures within the various zoning districts shall be 35 feet.

1. *Measuring Building Height:*

- a. *Building Height Measured in Feet. This is measured from the natural topography of the ground at the mid-point of the foundation line facing the frontage road, and the center of the peak of the highest roof of the dwelling.*

When measured in feet, building height shall be measured from the average of the finished ground level at the center of all walls of a building or structure to the highest point of the roof surface of a flat roof, to the deck line of a mansard roof, and to the highest level or point of a gable, conventional, hip, or gambrel roof.

b. *Building Height Measured in Stories.* In measuring the height of a building in stories, the following measurement rules shall apply:

- (1) A balcony or mezzanine shall be counted as a full story when its floor area is in excess of one-third (1/3) of the total area of the nearest full floor directly below it.
- (2) No story of a commercial or residential building shall have more than twenty-five (25) feet from floor to floor.

2. *Exemptions from Building Height Regulations:*

The following structures and features shall be exempt from the height requirements of this Zoning Ordinance:

- a. Chimneys, smokestacks or flues that cover no more than 5% of the horizontal surface area of the roof.
- b. Cooling towers, ventilators and other similar equipment that cover no more than 5% of the horizontal surface area of the roof.
- c. Elevator bulkheads and stairway enclosures.
- d. Water and fire towers.
- e. Utility poles and support structures.
- e. Belfries, spires and steeples.
- f. Monuments and ornamental towers.
- g. Solar energy systems.
- h. Parapet walls.

HOME OCCUPATION

An accessory use of a dwelling unit for gainful employment of the family members only involving the manufacture, provision or sale of goods and/or services.

An occupation customarily conducted entirely within a dwelling unit that is clearly an incidental and secondary use of the dwelling. Without limiting the foregoing, a single family detached residence used by an occupant of that residence to give instruction in a craft or fine art within the residence shall be considered a home occupation.

HOSPITAL

An institution providing health services, primarily for in-patients and medical or surgical care, including as an integral part of the institution, related facilities *such* as laboratories, out-patient departments, training facilities, central service facilities and staff offices.

HOTEL OR MOTEL

A series of attached, semi-attached, or detached rental units, cabins, and similar dwelling units providing overnight lodging for transients, open to the traveling public for compensation.

SECTION 2.10 DEFINITIONS – I

NONOPERATIVE VEHICLES

Any motor vehicle which is currently not capable of being started, **and** safely, and properly operated on the highway.

INTENSIVE LIVESTOCK OPERATIONS

- A. A total of seven hundred and fifty (750) dairy cattle (all classes); seven hundred and fifty (750) slaughter or feeder cattle, one thousand eight hundred (1,800) swine (all classes), one hundred thousand (100,000) poultry (all classes); five thousand (5,000) sheep or goats (all classes); or two hundred (200) horses (all classes); or
- B. A population per acre of at least four (4) dairy cattle, four (4) slaughter or feeder cattle, twenty (20) swine, seven hundred (700) poultry, ten (10) sheep or goats, or four (4) horses.

SECTION 2.11 DEFINITIONS – J

JUNK

Any motor vehicles, machinery, appliances, products, or merchandise with parts missing; or scrap metals or materials that are damaged or deteriorated; scrap, rubbish, garbage, deteriorated lumber, or trash; or vehicles or machines in a condition which precludes their use of the purpose for which they were manufactured. Anything commonly known as “junk.”

JUNK YARD

The term “junk yard” includes automobile wrecking yards and salvage areas and includes any area of more than two hundred (200) square feet for the storage, buying, selling, sale, processing, keeping or abandonment of junk, including scrap metals, other scrap materials or reclaimed materials, or for the dismantling, demolition, or abandonment of automobiles or other vehicles or machinery or parts thereof for profit or not for profit, but does not include lawful uses or storage conducted entirely within enclosed buildings.

SECTION 2.12 DEFINITIONS – K

KENNEL

Any lot or premises on which four (4) or more dogs and/or cats, six (6) months of age or older that are kept for any purpose temporarily or permanently for the purpose of breeding, boarding or for sale.

SECTION 2.13 DEFINITIONS – L

LAWN

Ground cover consisting of grass or sod kept closely mowed, commonly used as a primary ground cover.

LIVESTOCK

Any animal kept for farming, profit, harvest, or business. Also any farm animal, including, but not limited to, cattle, dairy cows, sheep, pigs, hogs, horses, chickens, deer, elk, alpaca, mink, geese, turkeys, or other poultry, birds, or other animals.

LIVING SPACE (with respect to residential uses)

That part of a dwelling that is normally occupied including bedroom, kitchen, bathroom and gathering areas it excludes storage areas such as closets, attics, basements and garages. In order for a basement to qualify as living space, it must be finished for living purposes and each qualifying room shall have a second form of egress under the building code.

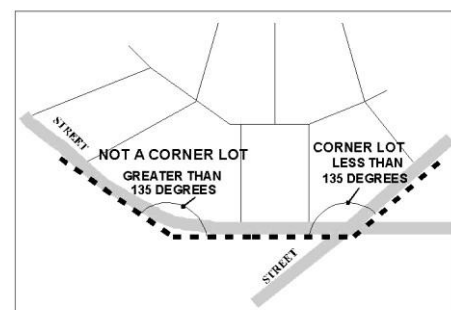
LOADING SPACE

An off-street space on the same lot with a building or group of buildings, for temporary parking for a commercial vehicle while loading or unloading merchandise or materials. Off-street loading space is not to be included as off-street parking space in computation of required off-street parking.

LOT

A parcel of land, exclusive of any adjoining street or road right-of-way, separated from other parcels by a legal description or by a subdivision or record, which parcel is or may be occupied by one main building or use and its accessories, including the open spaces required by this Ordinance. The word “lot” shall include “plot” or “parcel.” This definition of “lot” shall

also include the portion of a condominium, site condominium, or conversion condominium designed and intended for separate ownership and use as described in the Master Deed



or equivalent document (usually called a “Unit”). The word “lot” shall also include any platted lot.

LOT AREA

The total horizontal area within the lot lines of a lot excluding land under a lake or river, a public road right-of-way, and any private street easement or right-of-way.

LOT, CORNER

A lot located at the intersection of two (2) roads streets or a lot bounded on two (2) sides by a curving street, any two (2) cords of which form an angle of one hundred thirty-five (135) degrees or less.

LOT COVERAGE

The part or percent of the lot occupied by impervious surfaces and by buildings or structures, including accessory buildings or structures.

LOT DEPTH

The mean horizontal distance from the front lot line to the rear lot line, or the two (2) front lines of a through lot or from the portion of the lot fronting on a street or road to the portion of the lot located furthest from the street or road, whichever measurement is longest.

LOT, INTERIOR

A lot other than a corner lot with only one (1) lot line fronting on a street or road.

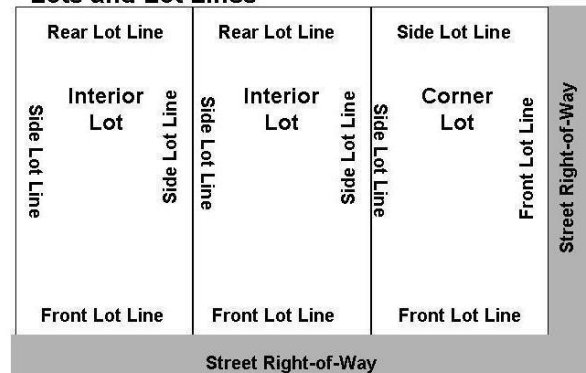
LOT LINES

The property lines bounding the lot.

- A. **Front Lot Line.** The line separating the lot from the abutting public or private street right-of-way. A corner or through lot shall have a front lot line abutting each adjacent public or private street right-of-way. (NOTE: For lots with frontage on a body of water, special rules may apply as provided elsewhere in this Ordinance.)

- B. **Rear Lot Line.** Ordinarily, that lot line which is opposite and most distant from the front lot line of the lot. In the case of an irregular or triangular-shaped lot, a line at

Lots and Lot Lines



least ten (10) feet in length entirely within the lot parallel to and at the maximum distance from the front lot line of the lot shall be considered to be the rear lot line for the purpose of determining the depth of a rear yard. In cases where none of these definitions are applicable, the Zoning Administrator shall designate the rear lot line. (See Double Frontage Lot). (NOTE: For lots with frontage on a body of water, special rules may apply as provided elsewhere in this Ordinance.)

- C. Side Lot Line. Any lot line not a front lot line or a rear lot line. A side lot line separating a lot from another lot or lots is an interior side lot line.

LOT OF RECORD

A lot which lawfully exists in a subdivision plat as shown on the records of the County Register of Deeds, or a lawful lot or parcel described by metes and bounds, the description of which has been so recorded with the Muskegon County Register of Deeds as required by law.

LOT, THROUGH

A lot other than a corner lot having frontage on two (2) more or less parallel streets, road. If there are existing structures in the same block fronting on one (1) or both of the streets, the required front yard setback shall be observed on those streets, road where the structures presently front.

LOT WIDTH

The horizontal distance between the side lot lines, measured as nearly as possible at right angles to the side lot lines.

SECTION 2.14 DEFINITIONS – M

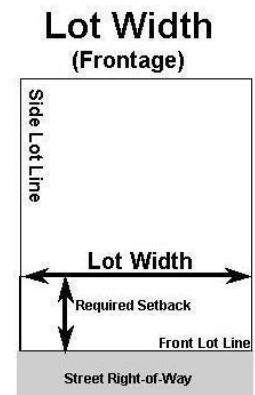
MAIN BUILDING

The building or structure in which the principal use of the lot or parcel is located. Storage buildings, garages, and other accessory uses and structures shall not be considered main buildings.

MANUFACTURED HOME

A residential building, dwelling unit, dwelling room or rooms, or a building component which is designed for long-term occupancy as a dwelling unit or portion of a dwelling unit, and is wholly or substantially constructed at an off-site location, transported to a site and erected. A manufactured home is also commonly referred to as a mobile home or house trailer. This definition does not include a recreational vehicle.

MANUFACTURED HOME PARK



A parcel or tract of land under the control of an individual, corporation, limited liability company, the state or any political subdivision thereof, agency, business trust, estate, trust, partnership or association, two or more persons having a joint or common interest, and any other legal or commercial entity upon which three (3) or more manufactured homes are located on a continual, nonrecreational basis and which is offered to the public for that purpose regardless of whether a charge is made therefore, together with any building, structure, enclosure, street, equipment, or facility used or intended for use incident to the occupancy of a manufactured home

MANUFACTURED HOME SPACE

A plot of ground within a manufactured home park designed for the accommodation of one (1) manufactured home.

MARINA

Any place, facility, business, or club providing watercraft or boat moorings or spaces for boats or watercraft and frequently providing related services, such as fuel, shower, and/or repair. This definition also includes a situation where more than three (3) families share or utilize a lakefront or lake access area, as well as the use of a dock, pier, boat hoist, or similar item at or adjacent to a road end or a dedicated park area.

MASTER PLAN

The Master Plan or Land Use Plan as adopted by White River Township, including graphic and written materials, indicating the general location for streets, parks, schools, public buildings, and all physical development of the Township, and includes any unit or part of the plan and any amendment to the plan.

MEDICAL MARIJUANA DISPENSARY

Compassion Club, Provisioning Center or Medical Marihuana Dispensary – Any business, facility, association, cooperative, location or operation, whether fixed or mobile, where medical marihuana is made available to, sold, delivered, processed, transmitted, dispensed, or distributed by or to one or more of the following:

1. A primary caregiver (as defined by Michigan Initiated Law I of 2008 as amended, being MCL 333.26421 *et seq.*, as amended).
2. A qualifying patient (as defined by Michigan Initiated Law I of 2008 as amended, being MCL 33.26421 *et seq.*, as amended).
3. Members of the general public.

A medical marihuana dispensary (compassion club or provisioning center) shall also include any place, location, facility, or operation, whether fixed or mobile, where medical marihuana is smoked or consumed where either

three or more persons are present and smoking or consuming medical marihuana, or where one or more persons are present and smoking or consuming medical marihuana, and such medical marihuana smoking or consuming is occurring on the property of a business, association, cooperative, or commercial operation or facility or on a public governmental property. A medical marihuana dispensary (compassion club or provisioning center) does not include the lawful dispensation of medical marihuana by a primary caregiver personally dispensing to not more than five (5) qualifying patients (as defined by Michigan Initiated Law I of 2008, as amended, being MCL 333.26421 *et seq.* as amended), so long as the primary caregiver personally delivers the lawful amount of medical marihuana to the qualifying patient where the qualifying patient resides and is done in full compliance with not only Eureka Charter Township ordinances, but also state law.

MICHIGAN DEPARTMENT OF ENVIRONMENTAL QUALITY (MDEQ)

Shall mean the Michigan Department of Environmental Quality, as well as its successor agency or agencies. The agencies called “the Michigan Department of Environmental Quality” and “the Michigan Department of Natural Resources” may be used interchangeably, depending upon which department or agency has jurisdiction at the state level over the matter being addressed in this Ordinance. The phrases “Michigan Department of Environmental Quality” or “Michigan Department of Natural Resources” or “MDEQ” or “DEQ” or “MDNR” shall also mean any other State of Michigan agency or department having jurisdiction of the zoning matter for which it is referenced in this Ordinance.

MOTOR HOME

A motorized vehicular unit primarily designed for temporary dwelling in connection with travel and/or recreational use. This term does not include manufactured homes.

SECTION 2.15 DEFINITIONS – N

NONCONFORMING BUILDING

A building or portion thereof lawfully existing at the effective date of this Ordinance or amendments thereto, and which does not conform to the provisions of the Ordinance or the District in which it is located. Also known as a lawful nonconforming building.

NONCONFORMING LOT OF RECORD

A platted lot that conformed with all Township zoning and other Township ordinance requirements at the time of recording of the plat, which no longer conforms to the zoning regulations and requirements for lot area, size, or dimension, lot width, or some combination thereof; or a lot outside a recorded plat that conformed with all Township

zoning and other Township ordinance requirements at one time, and which has not been subdivided or reduced in size subsequent to the time it did conform to the Zoning Ordinance, which no longer conforms with the zoning or other requirements for lot area, size, or dimension, lot width, or some combination thereof. Also known as a lawful nonconforming lot.

NONCONFORMING USE

A use which lawfully occupied a building or land at the effective date of this Ordinance or amendments thereof, and that does not conform to the use or other regulations of the District in which it is located or other requirements of this Ordinance. Also known as a lawful nonconforming use.

NONRESIDENTIAL DISTRICT

The C, LI, and LC zoning districts.

SECTION 2.16 DEFINITIONS – O

OPEN AIR BUSINESS

Uses operated for profit substantially in the open air, including, but not limited to:

- A. Bicycle, utility truck or trailer, motor vehicle, boats, or home equipment sale, repair, rental, or storage services.
- B. Outdoor display and sale of garages, motor homes, manufactured homes, snowmobiles, swimming pools, and similar activities but not including farm implements or commercial construction equipment.
- C. Retail sale of trees, fruits, vegetables, shrubbery, plants, seeds, topsoil, humus, fertilizer, trellises, lawn furniture, playground equipment, and other home garden supplies and equipment, but not including lumberyards.
- D. Tennis courts, archery courts, shuffleboard, horseshoe courts, rifle ranges, miniature golf, golf driving ranges, children's amusement park or similar recreation uses (transient or permanent).

ORDINARY HIGH WATER MARK

The line between upland and bottomland adjacent to a lake, river, or stream 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. Where the water levels vary for purposes of water level management, the ordinary high water mark shall be the higher of the levels generally present.

ORDINANCE

Where the word “Ordinance” (capitalized) or “this Ordinance” (capitalized) appears, it generally means the White River Township Zoning Ordinance, as amended.

OUTDOOR FURNACE

Any device, appliance, and equipment apparatus or structure designed for heating a structure that:

- A. Is designed, intended and/or used to provide heat and/or hot water to any associated structure.
- B. Operates by burning wood or any other fuel including, but not limited to, propane, coal, paper pellets, and agricultural products.
- C. Is not located within the structure to be heated.
- D. Includes, but is not limited to, devices referred to as outdoor furnaces, outdoor boilers, and outdoor stoves.

OUTDOOR RECREATIONAL FACILITY

Tennis courts, archery courts, shuffleboard, horseshoe courts, country clubs, rifle or gun ranges, gun club, miniature golf, golf driving ranges, golf courses, go-cart facilities, riding stables, amusement park or similar recreation uses (transient or permanent).

SECTION 2.17 DEFINITIONS – P

PARKING LOT

A facility providing vehicular parking spaces, along with adequate drives, aisles, and maneuvering space to allow unrestricted ingress and egress to at least two (2) vehicles.

PARKING SPACE

An off-street space of at least one hundred sixty-two (162) square feet exclusive, of necessary driveways, aisles, or maneuvering areas, suitable to accommodate one (1) motor vehicle and having direct unobstructed access to a street or alley.

PERSONAL SERVICE ESTABLISHMENTS OR SERVICE ESTABLISHMENTS

Any commercial business conducting services that are performed primarily on the premises.

PLANNED UNIT DEVELOPMENT

The use of a parcel of land which is planned and developed as a single entity containing the various uses, structures, open spaces, and other elements and which is designated and developed under one (1) owner or organized group. Also called a “PUD.”

PLANNING COMMISSION

The White River Township Planning Commission.

PORCH, ENCLOSED

A covered entrance to a building or structure which is totally enclosed, and projects out from the main wall of the building or structure and has a separate roof or an integral roof with the main building or structure to which it is attached.

PORCH, OPEN

A covered entrance to a building or structure which is unenclosed except for columns, posts or poles supporting the porch roof, and projects out from the main wall of the building or structure and has a separate roof or an integral roof with the main building or structure to which it is attached.

PRINCIPAL USE

The principal or primary use of land, buildings, or structures, as distinguished from accessory uses.

PUBLIC UTILITY

Any person, firm, corporation, municipal department, board, or commission duly authorized to furnish, under federal, state or municipal regulations, to the public, electricity, gas, steam, communications, telegraph, transportation, or water services.

SECTION 2.18 DEFINITIONS – Q

(RESERVED)

SECTION 2.19 DEFINITIONS – R

RECREATION VEHICLE OR EQUIPMENT

A vehicle or equipment used for recreational or leisure pursuits. Such vehicles shall include boats, airplanes, special purpose automobiles, floats, rafts, motorcycles, ATVs, UTVs, 4-wheelers, trailers, snowmobiles, camping or travel trailers, motorized homes, detachable travel equipment of the type adaptable to light trucks, and other equipment or vehicles of a similar nature.

RESIDENTIAL DISTRICT

The R, WR, and MHP districts.

RESORT

An establishment that provides temporary lodging accommodations, with or without meals and other services, for the traveling public. Resorts can provide lodging accommodation in a single building or buildings having several separate lodging accommodations, or in separate buildings, each providing a single lodging accommodation.

ROAD COMMISSION

The Muskegon County Road Commission.

ROADSIDE STAND

A farm building or separate structure used for the display or sale of agricultural products grown for human consumption.

SECTION 2.20 DEFINITIONS – S

SALVAGE YARD

See “Junk Yard”.

SETBACK

The minimum required horizontal distance from a structure or a building measured from the front, side, or rear lot line, as the case may be, which describes an area termed the required setback area or yard on a lot or parcel. Normally, no building or structure can be located within a required setback area.

SHORELINE

See “Ordinary High Water Mark”.

SHORT-TERM RENTAL (“STR”)

A Dwelling unit, cabin, cottage or house that is available for rental, leasing, or use for habitation, accommodation or lodging of guests paying a fee, charge or other compensation or consideration, for a period of less than 30 consecutive days and nights at a time.

SIGN

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

SIGNIFICANT NATURAL FEATURE

Any natural area as designated by the Planning Commission, Township Board, or the Michigan Department of Environmental Quality, or other appropriate governmental agency, which exhibits unique topographic, ecological, hydrological, or historical characteristics such as a wetland, floodplain, water features, or other unique natural features.

SPECIFIED ANATOMICAL AREAS

Specified anatomical areas are defined as less than completely and opaquely covered:

- A. Human genitals, pubic region, buttock, and 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.

SPECIFIED SEXUAL ACTIVITIES

Specified sexual activities are defined as:

- A. Human genitals in a state of sexual stimulation or arousal;
- B. Acts of human masturbation, sexual intercourse or sodomy; and/or
- C. Fondling or other erotic touching of human genitals, pubic region, buttock or female breast.

STATE LICENSED RESIDENTIAL FACILITY

A residential care facility licensed by the State of Michigan under Act 287 of 1972 of the Public Acts of Michigan, as amended, or Act 116 of 1973 of the Public Acts of Michigan, as amended, which provides resident care services under twenty four (24) hour supervision or care for persons in need of that supervision or care. This term does not include facilities licensed by the State of Michigan for care and treatment of persons released from or assigned to adult correctional institutions.

- A. A Residential Family Care Facility includes a state licensed residential facility providing resident services to six (6) or fewer persons.
- B. A Group Home Care Facility includes a state licensed residential facility providing resident services to more than six (6) persons.

STORY

That portion of a building, other than a basement or mezzanine, included between the surface of any floor and the floor next above it, or if there is no floor above it, then the

space between the floor and the ceiling next above it. For the purpose of this Ordinance, a basement or cellar shall be counted as a story only if over fifty percent (50%) of its height is above the level from which the height of the building is measured, or if it is used for business purposes.

STORY, HALF

That part of a building between a pitched roof and the uppermost full story having a floor area which does not exceed one-half (1/2) the floor area of the full story, provided the area contains at least two hundred (200) square feet and which contains a clear height of at least seven (7) feet, at its highest point.

STR LOT

Any lot or parcel with an STR dwelling or use present or occurring thereon.

STREET

Any street, road, right-of-way, or access easement.

A. Private Street: A private street shall mean any undedicated path, street, drive, trail, or road which is not a dedicated or other type of public right-of-way, and which provides or has the potential for providing access to two (2) or more lots and/or two (2) or more principal buildings, dwelling units, or other structures, whether created by a private right-of-way, agreement, license, dedication, joint ownership, easement or prescription. Any and all extensions, additions, or branches of or to a private street shall be considered part of the primary private street which abuts the public street. The term "street" also includes "road," "drive," "promenade," "court" or similar term. A private street shall also include:

1. An access serving one (1) parcel if that parcel does not have the requisite amount of frontage on a public road as required by the White River Township Zoning Ordinance, or;
2. Where two (2) or more lots or dwellings share or utilize a common access drive, even if each lot has the required frontage on a public road. A private street shall also include a path, street, trail, or road which is privately built or maintained and which is located on a public right-of-way or easement. This definition shall not apply to driveways located entirely within one lot and serving only that lot.

B. Public Street: An improved public thoroughfare located within a public road rightof way which affords traffic circulation and principal means of access to abutting property, including an avenue, way, drive, lane, boulevard, court, highway, road, street, and other public thoroughfare; except an alley.

STRUCTURAL ALTERATION

Any action other than maintenance or repair. Any change in the supporting, structure, or integral members of a building or structure, which includes, but is not limited to, walls, columns, beams, posts, girders, trusses, and similar items. More than a mere cosmetic change or minor repair to enhance safety.

STRUCTURE

Anything constructed, installed, or erected, the use of which requires location on the ground or attachment to something on the ground. Also, any constructed, erected, or placed material or combination of materials in or upon the ground having a fixed location, including, but not limited to, buildings, radio towers, billboards, light posts, signs, swimming pools, animal enclosures other than fences, garages, sheds, decks, docks, platforms, portable or moveable vehicle carports or enclosures, satellite dishes, towers, windmills, gazebos, tennis courts, and storage bins.

The following are excluded from the definition of “structure”:

- A. Lawful fences, sidewalks, and paving on streets, driveways, or parking areas;
- B. Decks or patios, no portion of which is located:
 - 1. More than two (2) feet above the ground (natural grade);
 - 2. Closer than fifteen (15) feet to any lot line; or
 - 3. Within thirty (30) feet of the high water mark of any lake.
- C. Retention walls or seawalls, unless they are installed adjacent to a dwelling and are used to aid in accessing the dwelling.

SUBSTANTIAL IMPROVEMENT

Any repair, reconstruction or improvement of a structure, the cost of which equals or exceeds fifty percent (50%) of the market value of the structure either before improvement or repair is started, or if the structure has been damaged and is being restored, before the damage occurred. For the purposes of this Ordinance, “substantial improvement” is considered to occur when the first alteration of any wall, ceiling, post, truss, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include either any project for improvement of a structure to comply with existing state or local health, sanitary or safety code specifications which are solely necessary to assure safe living conditions, or any alteration of a structure listed on the National Register of Historic Places or the Michigan Register of Historic Places.

SECTION 2.21 DEFINITIONS – T

TEMPORARY BUILDING OR USE

A structure or use permitted by the Zoning Administrator to exist during periods of construction of the main building or for special events.

TEMPORARY EVENT

A use, activity, or event which is normally not allowed within a District, but may be permitted under certain circumstances pursuant to a temporary event permit issued under this Ordinance. Such events can include, but are not limited to, block parties, parade of homes-type event, parades, festivals, bazaars, and fishing tournaments.

TOWNSHIP

White River Township, Muskegon County, Michigan.

TOWNSHIP ATTORNEY

The person or firm appointed or hired by the Township Board as the attorney for White River Township.

TOWNSHIP BOARD

The White River Township Board.

TOWNSHIP BUILDING INSPECTOR

The person or agency appointed or hired by the Township Board as the Building Inspector for White River Township.

TOWNSHIP ENGINEER

The person or firm appointed or hired by the Township Board as the Engineer for White River Township.

TOWNSHIP PLANNER

The person or firm appointed or hired by the Township Board as the Planner for White River Township.

TRAVEL TRAILER

A trailer mounted on wheels that is designed to provide temporary living quarters during recreation, camping or travel, does not require a special highway moving permit based on its size or weight when towed by a motor vehicle, and is less than forty (40) feet in length (including hitches) and less than 102 inches in width.

TOWNSHIP ZONING ADMINISTRATOR

The person or firm hired or appointed by the Township Board as the Zoning Administrator for White River Township. Please also see “Zoning Administrator.”

SECTION 2.22 DEFINITIONS – U

(RESERVED)

SECTION 2.23 DEFINITIONS – V

VEHICLE REPAIR

Any major or commercial activity involving the general repair, rebuilding or reconditioning of motor vehicles, engines, or trailers; collision services, such as body, frame, or fender straightening and repair; overall painting and vehicle rust-proofing; refinishing or steam cleaning.

VEHICLE SERVICE STATION

A building designed or used for the retail sale of fuel (stored only in underground tanks), lubricants, air, water or other operating commodities for motor vehicles (including trucks, aircraft and boats) and including the customary space and facilities for the installation of the commodities on or in the vehicles and including space for storage, hand washing, minor repair, and servicing, but not including vehicle repair as defined in this Chapter.

VEHICLE WASH ESTABLISHMENT

A building, or portion thereof, the primary purpose of which is that of washing motor vehicles.

VETERINARY HOSPITAL, CLINIC, AND INDOOR KENNEL

Any activity involving the permanent or temporary keeping or treatment of animals operated as a business.

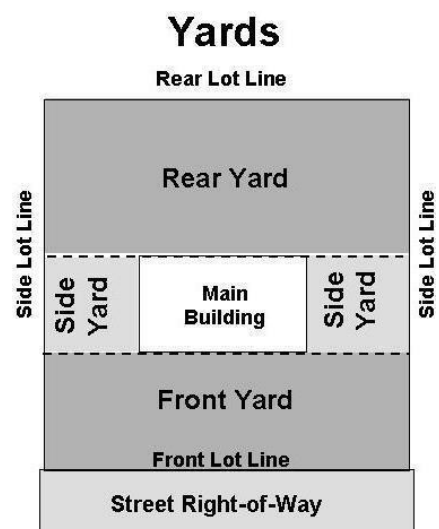
SECTION 2.24 DEFINITIONS – W

WATERFRONT LOT

A lot having frontage directly upon a lake, river, or other naturally formed impoundment or stream of water.

WIRELESS TELECOMMUNICATION SERVICES

Licensed telecommunication services including cellular, personal communication services (PCS), specialized mobilized radio (SMR), enhanced specialized mobilized



radio (ESMR), paging, and similar services that are marketed to the general public.

SECTION 2.25 DEFINITIONS – Y

YARD

A yard is an open space on the same land with a structure, building, or group of buildings, which open space lies between the structure, foundation of the building, or group of buildings and the nearest lot line and is unoccupied and unobstructed (*i.e.*, contains no building or structure) from the ground upward, except as otherwise provided herein.

- A. A front yard is an open space extending the full width of the lot, the uniform depth of which is measured at right angles to the front lot line.
- B. A rear yard is an open area extending across the full width of the lot, the uniform depth of which is measured at right angles to the rear lot line.
- C. A side yard is an open unoccupied area between a main building and the side lot lines, extending from the front yard area to the rear yard area. The width of the side yard shall be measured horizontally from and at right angles to the nearest point of the side lot line.

A yard is also a setback area within which no structure or building can be located.

SECTION 2.26 DEFINITIONS – Z

ZONING ACT

The Michigan Zoning Enabling Act, Act 110 of 2006 of the Public Acts of Michigan, as amended.

ZONING ADMINISTRATOR

The person hired or designated by the Township Board to administer the provisions of this Zoning Ordinance.

ZONING BOARD OF APPEALS, OR BOARD.

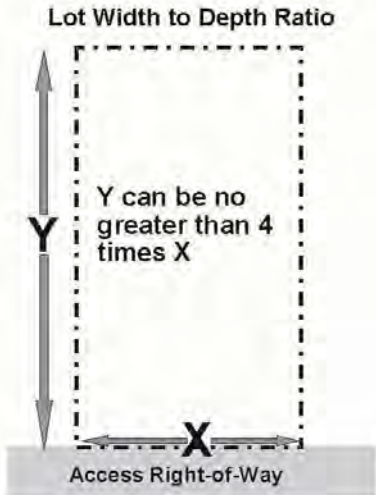
The Zoning Board of Appeals of White River Township, sometimes also abbreviated in this Ordinance as the “Zoning Board of Appeals” or “Board of Appeals.”

ZONING COMPLIANCE PERMIT

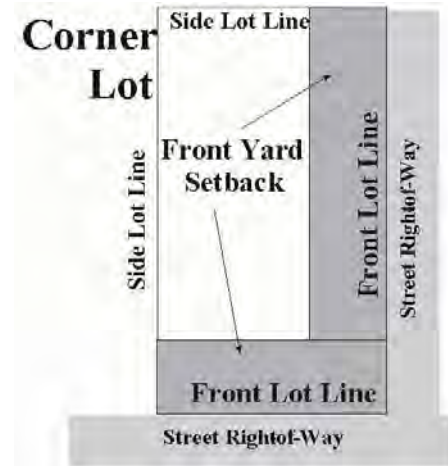
Also referred to as a “zoning permit.” Such a permit must be obtained before a use is commenced or changed or a building or structure is constructed or expanded as provided in this Ordinance.

CHAPTER 3 GENERAL PROVISIONS

SECTION 3.01 REQUIRED AREA, SPACE, AND USE CONDITIONS AND EXCEPTIONS

- A. No lot or lots in common ownership and no yard, dwelling, parking area, or other space shall be so created, divided, altered, or reduced as to make the area, size, or dimension less than the minimum required under this Ordinance. If already less than the minimum required under this Ordinance, the area, size, or dimension shall not be further divided or reduced. The creation of a condominium unit, every new parcel or lot and all land divisions, lot splits or property boundary reconfigurations of platted lots and unplatted parcels of land shall fully comply with all applicable requirements of the White River Township Zoning Ordinance, the Michigan Land Division Act, the Township Land Division Ordinance, and any other applicable Township ordinance.
- B. No lot or parcel shall be created which is greater than four (4) times deeper in length than its width at the street frontage (see graphic). The measurement of the maximum lot depth-to-width requirement shall be made from the point where the lot has frontage on a street to the portion of the lot which is located farthest away from the street (as measured within the lot). The Planning Commission may allow the creation of a lot or parcel which does not comply with the lot depth-to-width maximum requirements of this section if a special land use is approved. In determining whether to grant this approval, the Planning Commission shall first find that the greater depth is necessitated by conditions of the land in question, such as topography, road access, soils, wetlands, or floodplain, and that creation or use of the lot will not conflict with other Township ordinances and regulations or nearby land uses.
- 
- C. The division of a lot into two (2) or more lots or parcels (as well as the alteration of lot lines) shall require the approval of the Township Board or such other body or Township official or body as is designated by the Township Board. No platted land shall be partitioned, split, or divided, nor shall any platted lot boundary line be altered, without prior approval by the Township Board. The Township Board or its designee shall not approve the division of land or alteration of lot lines unless it determines that the proposed division or alteration complies with the requirements of this Ordinance, the Township Land Division Ordinance, the Michigan Land Division Act and all other applicable Township ordinances. The review for local compliance shall include, but not be limited to, the following:

1. lot area and dimensions
2. frontage
3. lot depth-to-width ratio
4. access
5. where the lot to be divided has existing structures, the resultant split shall not create an unlawful nonconformity in terms of lot coverage, setbacks or access.



- D. Lot areas shall not include land located within a public road right-of-way, a private street easement, or any street right-of-way for the purposes of computing minimum lot size, setbacks, width, or densities. Lots with land submerged for more than six (6) months during any twelve (12) month period shall not be permitted to include such lands in the calculation of required lot size, area, dimension, or density.
- E. Lots with frontage on a lake or river are treated differently for setback and yard purposes. Please see the applicable regulations contained in this Ordinance.

SECTION 3.02 HEIGHT EXCEPTIONS

The following structures shall be exempt from height regulations in all Districts: parapet walls not exceeding four (4) feet in height, chimneys, cooling towers, elevator bulkheads, fire towers (with special land use approval), grain elevators, silos, stacks, elevated water towers (with special land use approval), stage towers, monuments, cupolas, domes, spires, penthouses housing necessary mechanical appurtenances, wind-powered electrical generators (with special land use approval), essential public service towers and poles (with special land use approval), and wireless telecommunications towers that do not exceed seventy five (75) feet in height.

SECTION 3.03 PRINCIPAL USE

- A. Except as noted in subsection B, below, no lot or parcel of land shall have or contain more than (1) main building or one (1) principal use.
- B. Land and buildings for multiple family dwellings, shopping areas, and other similar developments may be considered a principal use collectively by the Zoning Administrator if the following conditions are met:
1. The land and buildings are planned and designed as a single integral development, including joint parking, compatible architecture, shared driveways, shared signs, and other similar features.

2. All uses, if not the same, shall be similar in function and/or operation.
- C. If a part of any building is lawfully used for residential purposes and the remainder thereof is lawfully used for business, commercial, or other nonresidential use, the part thereof used for residence purposes shall comply with all applicable requirements of the underlying District, if a Residential District, and the requirements of the Nonresidential District if a nonresidential District.
- D. No more than one dwelling is allowed on a lot or parcel unless the District involved allows multi-family housing.

SECTION 3.04 STREET ACCESS AND FRONTAGE

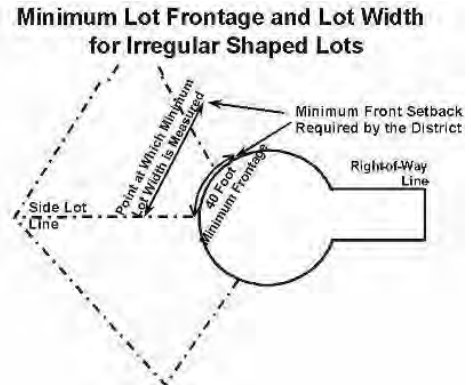
Every lot shall have frontage on an improved public street or approved lawful private street equal to or greater than the minimum lot width requirement of the District within which the lot is located.

SECTION 3.05 BASIS OF DETERMINING SETBACK OR YARD REQUIREMENTS

- A. The front yard setback line shall be measured from the right-of-way line or easement line abutting a street, to the structure.
- B. Side yard setbacks shall be measured to the structure, including the eaves and chimney of the building.
- C. The front lot line of a corner lot shall be the shorter of the two lot lines. Where the lot lines are of equal length, and/or the front lot line is not evident, then the Zoning Administrator shall determine the front lot line. The width of a corner lot shall be determined by the entire length of that front lot line which is opposite the rear lot line.
- D. On waterfront lots, the front yard shall be considered as the portion of the lot fronting on the waterfront, measured from the ordinary high water mark. All front yard requirements for accessory buildings, parking, fences, dish antennae, and other applicable provisions shall also be met and measured from the ordinary high water mark. A waterfront lot shall not be considered a through lot. On waterfront lots, the rear yard shall be considered as that portion of the lot fronting on the public street or lawful private street.
- E. On corner and through lots, the front yard requirements shall apply on both streets.
- F. A deck shall be considered part of a building and shall meet all setback requirements unless expressly permitted otherwise elsewhere in this Ordinance.

SECTION 3.06 MINIMUM LOT WIDTH; FRONTAGE

- A. The minimum lot width required in each District shall be maintained across the entire length/depth of the lot or parcel, except as otherwise provided for cul-de-sacs in subsection B, below.
- B. All lots shall have frontage on an improved public street or on a lawful private street for a distance equal to or greater than the minimum lot width specified for the District in which the lot or parcel of land is located. Lots abutting a cul-de-sac shall be permitted to have less street or road frontage (but in no case less than forty (40) feet of such frontage), provided, however, that a special land use is obtained and further provided that the lot width at the front setback line (or the rear setback line in the case of waterfront lots), and beyond shall satisfy the minimum lot width requirement of the District in which the lot or parcel of land is located.
- C. For all lots or parcels abutting or having frontage on a lake, river, or stream, each lot or parcel shall have frontage on the lake, river, or stream, as measured at the ordinary high water mark, equal to or greater than the minimum lot width requirement of the District within which the property is located.
- D. For the purposes of this Section, the measurement of lot width and frontage shall exclude all street or road rights-of-way or easements.



SECTION 3.07 FLOOR AREAS AND GRADE LEVEL

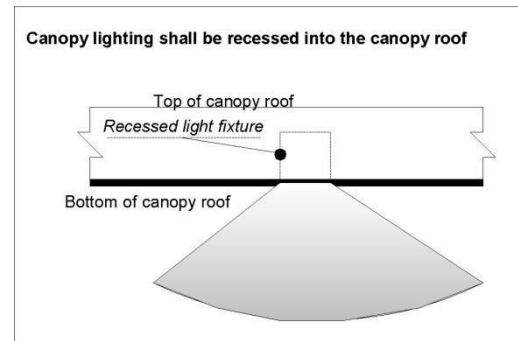
No building or structure intended for human use or habitation shall be constructed on land which is subject to flooding or on land where a minimum of one (1) foot between finished grade level and flood level cannot be maintained. Filling to bring to grade level is not permitted.

SECTION 3.08 ACCESSORY BUILDINGS, STRUCTURES, AND USES

- A. Accessory buildings integrally and substantially attached to dwellings or other main buildings, including enclosed porches and garages, shall be deemed a part of those buildings and must conform to all regulations of this Ordinance applicable to main buildings.
- B. No manufactured home, tank, junk object or salvage materials, trailer, vehicle, or similar item shall be considered or utilized as an accessory building or storage structure.

C. Canopy roofs for lawful commercial uses such as those for gas pump islands accessory to vehicle service stations, banks, and other similar uses shall be permitted to encroach into required yards, provided that:

1. A minimum setback of twenty (20) feet is maintained from any side or rear property line.
2. A minimum of fifty (50) feet is maintained from any front property line.
3. The height of the canopy roof shall not exceed fourteen (14) feet and shall be open on all sides.
4. The colors and design of the canopy shall be compatible with the main building.
5. Lighting on or within the canopy shall be flush mounted (see graphic).
6. Signs shall comply with the wall sign provisions of Chapter 18 of this Ordinance.



D. Accessory buildings shall not be located in any required front yard. Each accessory building shall meet all setback requirements applicable to the main building except where otherwise expressly provided for in this Ordinance.

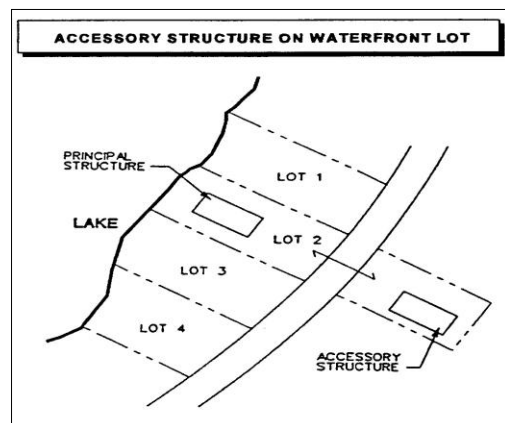
E. Except for bona fide farm uses and buildings, no accessory building or use shall be permitted on any lot which does not contain a principal building or use.

F. No part of an accessory building shall be used as a dwelling for residential purposes.

G. Detached accessory buildings and mechanical appurtenances shall be located:

1. A minimum of ten (10) feet from any main building.
2. For any waterfront lot, one accessory building may be constructed within the required setback from the break in the bank or the ordinary high water mark, provided that it is no larger than twenty-four (24) square feet in area and eight (8) feet in height, which shall be counted toward the total number and square footage allowed for all accessory buildings on the lot involved. Other accessory buildings or structures shall otherwise comply with all of the requirements of the underlying District.

3. For any waterfront lot, where a portion of a lot or property is located across a street right-of-way from that portion of the lot upon which the principal structure is located, an accessory building or structure may be constructed on that portion of the unoccupied lot across the street right-of-way, provided however, said lots shall be permanently combined under one (1) legal description and ownership and described and recorded as such. No such property shall be so combined and no accessory building shall be so built until the arrangement is approved in writing by the Zoning Administrator and any document to be recorded with the county register of deeds records combining the lots or properties has been reviewed and approved by the Township as to form and content. An accessory building so located shall meet the requirements of a principal building pursuant to setbacks from the road and side and rear lot lines. H. Maximum Floor Area:
 1. In the AR, R, and WR Districts, accessory building sizes for residential uses are limited based on lot size following:
 - a. Less than two (2) acres: nine hundred sixty (960) square feet;
 - b. Between two (2) and five (5) acres: one thousand two hundred (1,200) square feet; and
 - c. More than five (5) acres: two thousand (2,000) square feet.
 2. Maximum floor area for accessory buildings shall not apply to:
 - a. Buildings accessory to agricultural operations in the AR District;
 - b. Multiple-family developments with site plan approval;
 - c. Mobile home park community centers with site plan approval; or
 - d. Lawful uses in nonresidential zoning districts.
 3. The maximum floor area of all accessory buildings, excluding attached garages, which are accessory to primary nonresidential uses, shall be subject to the following square footage requirements based on lot sizes within the C zoning district:



- a. Less than two (2) acres: nine hundred and sixty (960) square feet,
 - b. Between two (2) and five (5) acres: One thousand two hundred (1,200) square feet,
 - c. More than five (5) acres: One thousand five hundred (1,500) square feet.
4. One (1) freestanding accessory building of 120 square feet is permitted in addition to accessory buildings permitted in this Ordinance, provided there is no attached accessory building on the lot.
- I. Except for accessory structures associated with agricultural operations:
- 1. Accessory structures of fewer than 1,200 square feet shall not exceed fourteen (14) feet in height.
 - 2. Accessory structures of over 1,200 square feet shall not be over twenty (20) feet in height.
- J. No more than one (1) freestanding accessory building may be permitted on any lot or parcel on which is located a single or two family dwelling unless otherwise permitted in this Ordinance.

SECTION 3.09 DISH ANTENNA

- A. These regulations shall not apply to dish antennas that are one (1) meter (39.37 inches) or less in diameter in Residential Districts or two (2) meters or less in diameter in Nonresidential Districts.
- B. A dish antenna may be mounted on the roof of a main building or accessory building provided it shall not exceed a height of five (5) feet above the roofline of the building, including the mounting structure.
- C. Dish antennas are permitted in all Districts, provided the setback requirements of Section 3.08 for detached accessory buildings are maintained and the following conditions satisfied:
- 1. No portion of the antenna shall conduct or display any advertising, message, or other graphic representative other than the manufacturer's name.
 - 2. No dish antenna shall exceed a height of fifteen (15) feet, including its mounting structure.

SECTION 3.10 REGULATIONS APPLICABLE TO ALL SINGLEFAMILY DWELLINGS

It is the intent of this Section to establish minimum standards of appearance and construction for all single-family dwellings placed in the Township, whether constructed on a lot or a manufactured home (located outside of an approved manufactured housing community). Construction, use and/or placement of a single-family dwelling on any lot or parcel shall be permitted only if the dwelling complies with all of the following standards:

- A. If the dwelling unit is a manufactured home, the manufactured home must either be:
 - 1. New and certified by the manufacturer and/or appropriate inspection agency as meeting the Mobile Home Construction and Safety Standards of the U.S. Department of Housing and Urban Development of 1976, as amended, or any similar successor or replacement standards which may be promulgated; or
 - 2. Used and certified by the manufacturer and/or appropriate inspection agency as meeting the standards referenced in subsection (1) above, and found, on inspection by the Building Inspector or his designee, to be in excellent condition and safe and fit for residential occupancy.
 - 3. Proof of certification shall be provided to the Zoning Administrator prior to issuance of zoning compliance permits.
- B. The dwelling unit and all additions to existing dwellings shall comply with all applicable building, electrical, plumbing, fire, energy, health, sanitation and other similar codes which are or may be adopted by the Township, and with applicable federal or state standards or regulations for construction. Appropriate evidence of compliance with these standards or regulations shall be provided to the Building Inspector.
- C. The dwelling unit shall comply with all restrictions and requirements of this Ordinance, including, without limitation, the lot area, lot width, residential floor area, yard, and building height requirements of the District in which it is located.
- D. The dwelling unit shall be firmly attached to a permanent continuous foundation which complies with applicable provisions of the building code adopted by the Township.
- E. All dwellings shall be firmly attached to the foundation so as to be watertight as required by the construction code currently adopted by the Township, or if a manufactured home shall be anchored to the foundation by an anchor system designed and constructed in compliance with the United States Department of Housing and Urban Development Regulations entitled "Mobile Home Construction and Safety Standards."

- F. If the dwelling unit is a manufactured home, the manufactured home shall be installed with the wheels and towing mechanism removed.
- G. The foregoing standards shall not apply to a manufactured home located in a manufactured housing community licensed by the Michigan Manufactured Home Commission and approved by the Township according to the provisions contained in Chapter 8 of this Ordinance except to the extent required by state or federal law.
- H. All dwelling units located outside of approved manufactured home parks shall comply with all of the following:
 - 1. All dwelling units shall provide a minimum height between the floor and ceiling of seven and one-half (7-1/2) feet.
 - 2. The dwelling unit shall have a minimum horizontal dimension across any front, side or rear elevation of at least twenty (20) feet at the time of manufacture, placement or construction. In addition, a dwelling shall be at least twenty (20) feet wide for seventy percent (70%) of its length.
 - 3. Any dwelling unit shall have a minimum finished living area at or above finished grade of at least 960 square feet. Finished basements with or without egress shall not be included in minimum square footage measurements.
 - 4. All dwellings shall provide steps or porch areas, permanently attached to the foundation, where there exists an elevation differential or more than one (1) foot between any door and the surrounding grade. All dwellings shall provide a minimum of two points of ingress and egress.
 - 5. All dwellings shall be aesthetically compatible in design and appearance with other residences in the vicinity.
 - a. The compatibility of design and appearance shall be determined in the first instance by the Zoning Administrator upon review of the plans submitted for a particular dwelling.
 - b. An appeal by an aggrieved party may be taken to the Zoning Board of Appeals. Any determination of compatibility shall be based upon the standards set forth in this Section as well as the character, design and appearance of residential dwellings located outside of manufactured home parks within five hundred (500) feet of the subject dwelling.
 - 6. All roofs shall have at least a 3:12 pitch.
 - 7. Any addition to a dwelling must be of substantially the same construction as the original building.

- I. The foregoing shall not be construed to prohibit innovative design concepts involving such matters as solar energy, view, unique land contour, or relief from the common or standard design home.
- J. Prior to issuance of a building permit or zoning compliance permit for any dwelling unit, construction plans, including a plot plan, adequate to illustrate compliance with the requirements of this Ordinance shall be submitted to the Zoning Administrator. If the dwelling unit is a manufactured home, adequate evidence must be submitted to the Township to assure that the dwelling complies with the standards applicable to manufactured homes set forth in this Section.
- K. All dwellings shall meet the requirements of the construction code adopted by the Township and the Michigan Construction Code for snow loading.

SECTION 3.11 TEMPORARY USES OR BUILDINGS REQUIRING ZONING ADMINISTRATOR AUTHORIZATION

- A. Pursuant to an application, the Zoning Administrator may issue a permit for the following temporary buildings or uses. Each permit shall specify a location for the building or use and shall be valid for a period of not more than twelve (12) calendar months. Permits may be renewed by the Zoning Administrator for one (1) additional successive period of six (6) calendar months or less at the same location and for the same purpose. Additional extensions may be granted by the Zoning Administrator only after consideration of the standards of this Section. The Zoning Administrator may attach reasonable conditions to the issuance of any such permit.
 - 1. Temporary office building or construction yard incidental and necessary to construction at the site where located.
 - 2. Temporary sales office or model home incidental and necessary for the sale or rental of real property in a new subdivision or housing project. In any case, the temporary office or model home shall be removed when fifty percent (50%) or more of the lots or units have been sold or leased.
 - 3. Outdoor Christmas Tree/Fireworks Sales: The outdoor display and sale of Christmas trees and fireworks is permitted outside residential zoning districts. The display and sale of trees or fireworks on an open lot shall be allowed for a period not to exceed forty-five (45) days. No fresh cut tree sales shall be conducted from within a building. All unsold trees must be removed from the property by December 31 of each calendar year. All unsold fireworks must be removed from the property by July 10 of each calendar year. Outdoor fireworks sales will be conducted pursuant to the Fire Code.

4. Where a landowner desires to temporarily live in an existing dwelling or a temporary dwelling while a new dwelling is being built or rebuilt after a fire, flood, or other calamity on the same lot.
- B. In considering authorization for all such temporary uses or buildings, the Zoning Administrator shall consider the following standards and may attach reasonable conditions to temporary uses or structures to ensure that the standards of this Section are met. The Zoning Administrator shall determine that:
1. The use or structure will not have an unreasonable detrimental effect upon adjacent properties.
 2. The use or structure is reasonably necessary for the convenience and safety of the construction proposed.
 3. The use or structure does not adversely affect the character of the surrounding neighborhood.
 4. Access to the use area or structure is located at a safe location with relation to surrounding properties, natural features, and adjacent streets.
 5. The use or structure is safe.
- C. The property owner shall, prior to the installation of the original dwelling or temporary dwelling or item, file with the Township a cash deposit, irrevocable letter of credit or bond approved by the Township in an amount sufficient to cover the costs of having the Township remove the original dwelling or temporary dwelling or item if the property owner fails to comply with all ordinance requirements and attached conditions. Such security shall include, but not be limited to, the Township's costs and attorney fees. Furthermore, the property owner shall sign any agreement that the Township deems appropriate prior to the permit for the original dwelling or a temporary dwelling or item being issued.
- D. Every original dwelling and all temporary dwellings, buildings and uses shall be removed from the premises following the expiration of the permit and any extensions, or upon completion of the permanent building or structure.

SECTION 3.12 FENCES

- A. Fences shall not be constructed within any public right-of-way or private street easement.
- B. No fence shall contain any electrification unless determined by the Zoning Administrator to be necessary for agricultural purposes or for security in a Nonresidential District, or for the protection of public utility buildings or improvements.

- C. Fences shall not exceed six (6) feet in height, measured from the surface grade to the uppermost portion of the fence; however, a fence in the AR District that is used for the enclosure of animals may be erected to a height of eight (8) feet.
- D. Fences erected within the required front yard in any district shall not exceed four (4) feet in height. Fences within the front yard shall be of a type which is not more than twenty-five percent (25%) solid, so as not to obscure vision at the right-of-way or property line of the lot or parcel on which it is placed. However, a fence in the AR District within the front yard on a lot or parcel that does not contain a residential use and serves as an animal enclosure may be erected to a height of eight (8) feet.
- E. Fences in Residential Districts or enclosing residential uses shall be erected with the finished side facing outward. Such fences shall not contain barbed wire, except that fences in the AR District and the Nonresidential Districts which enclose animal pens, storage lots or other areas requiring security may contain barbed wire, provided that the barbed portion of the fence shall not be nearer than six (6) feet from the surface of the ground.
- F. Fences in the Residential Districts or on a waterfront lot erected between the main building and the break in the bank or shoreline shall not exceed four (4) feet in height. Fences within such setback shall be of a type which is not more than twenty-five percent (25%) solid, so as to not obscure vision at the property line of the lot or parcel which it is placed. No fence shall be located within thirty (30) feet of the ordinary high water mark.
- G. The total height of fences in any Nonresidential District shall not exceed eight (8) feet.
- H. Fences shall be erected or maintained in any District in such a way as to not obstruct the vision of vehicle drivers within the clear vision area as required by Section 3.16.
- I. Fences shall be set back a minimum of two (2) feet from a sidewalk.
- J. Fences shall be maintained in good repair and condition at all times.
- K. A fence for a nonresidential use may exceed a height of eight (8) feet only if approved as a special land use.

SECTION 3.13 SWIMMING POOLS

- A. Any pool over (24) inches deep and with a surface area of more than two hundred and fifty (250) square feet shall not be constructed, installed, enlarged or altered until a building permit has been obtained and shall comply with the requirements of this section.

- B. The outside edge of the pool wall and/or the deck and any other appurtenances shall not be located closer than ten (10) feet from any rear or side property line. Swimming pools shall not be located in the required front yard.
- C. Each pool shall be enclosed by a minimum four (4) foot high stockade fence, wall, or other structure or device, sufficient to make the pool inaccessible to small children. This enclosure, including gates shall not be less than four (4) feet

above the underlying ground; all gates must be self-latching with latches placed four (4) feet above the underlying ground or otherwise made reasonably inaccessible from the outside to small children.
- D. All swimming pool installations shall comply with the State Construction Code and all standard codes referred to therein.

SECTION 3.14 GREENBELTS AND LANDSCAPING

- A. In order to provide protective screening for Residential Districts or uses adjacent or near Nonresidential Districts or uses, the Planning Commission may require a landscaped greenbelt to be installed on the Nonresidential District or use property.
- B. The greenbelt shall be a strip at least ten (10) feet in width planted and maintained with evergreens, such as spruce, pines, or firs at least five (5) feet in height, or a hedge of evergreens at least four (4) feet in height, at time of planting, and situated so as to provide an effective sound and visual permanent buffer. The portion of the landscaped area not covered by plantings and trees and plants required as part of the greenbelt shall be kept in a healthy growing condition, neat and orderly in appearance. Dead or diseased plant materials shall be promptly replaced.

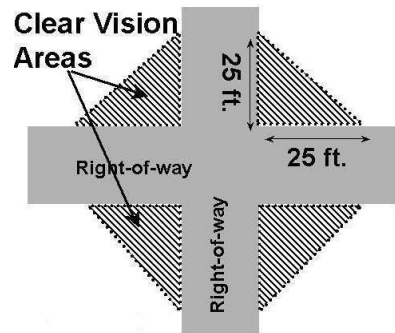
SECTION 3.15 INSTALLATION OF LANDSCAPING

- A. Any site on which a use permitted by this Ordinance is established shall install a lawn or other type of living ground cover for land areas disturbed as a result of construction and not covered by impervious surfaces within six (6) months after a certificate of occupancy is issued. A performance guarantee may be required by the Township to ensure that landscaping is installed within the six (6) month period. No landscape materials other than lawn and street trees approved by the Muskegon County Road Commission shall be planted within any public road right-of-way.
- B. The owner of the land on which landscaping or buffers have been required by this Ordinance or by action of the Township pursuant an approval granted by this Ordinance or other Township ordinances shall initially plant the landscaping and/or buffer and shall, thereafter, perform all necessary maintenance and replacement for the landscaping and/or buffer. All trees or other landscape material required or used as part of the landscaping and/or buffer which is lost, dies, or is seriously

damaged for any reason shall be replaced not later than the following planting season with equivalent landscape material.

SECTION 3.16 CLEAR VISION

- A. No plantings, fencing, signs or other obscuring structures or elements shall be established or maintained on any corner lot which will obstruct the view of a vehicle driver approaching the intersection. The unobstructed corner shall mean a triangular area formed by the street property lines and a line connecting them at points twenty-five (25) feet from the intersection of the street lines. This shall not prohibit the planting of shrubbery which will not achieve a height at maturity of more than thirty (30) inches.



- B. No vegetation shall be maintained in any setback area which, in the opinion of the Zoning Administrator, will obstruct the view from of vehicles entering or leaving the site from driveways or adjacent roadways. No fences over four (4) feet in height shall be permitted adjacent a driveway where visibility may be impaired at the street.

SECTION 3.17 ESSENTIAL PUBLIC SERVICES

The erection, use, construction, alteration or maintenance of essential public services, shall be permitted as authorized or regulated by law and other ordinances in any District. The intent of this is to exempt actions regarding essential public services from the application of this Ordinance, notwithstanding the following exceptions:

- A. Electrical substations, gas/oil well equipment, and/or gas regulator stations shall be enclosed with a fence or wall six (6) feet high and adequate to obstruct passage of persons or materials, except through securable gates.
- B. Public utility buildings when located in any Residential District shall not include maintenance shops, repair garages, or storage yards as a principal or accessory use.
- C. Public utility facilities in any District are required to be constructed and maintained in a neat and orderly manner. Any building which is constructed shall be landscaped and conform to the general character of the architecture of the surrounding neighborhood.

SECTION 3.18 ILLEGAL DWELLINGS

- A. Any unfinished basement or finished basement without a direct outside access shall not be considered as living area, for the calculation of required living area of a dwelling. Any dwelling without a full floor above grade shall be considered a basement dwelling.
- B. No building, structure, or recreational equipment intended for human use or habitation shall be constructed or occupied unless it meets the minimum requirements of this Ordinance, the Muskegon County Health Department, and the adopted Building Code of White River Township, except as otherwise permitted in this Ordinance.

SECTION 3.19 RAZING AND MOVING BUILDING

- A. No building shall be razed or demolished until a zoning compliance permit has been obtained from the Zoning Administrator which shall be authorized to require a performance bond or other cash security. The bond or security shall be conditioned on the applicant completing the razing or demolition within such reasonable period as shall be prescribed in the permit and complying with such regulations and conditions as to health and safety as the Zoning Administrator may prescribe, including filling of excavations, capping of wells, closure of the septic system, proper termination of utility connections, and other applicable codes.
- B. No existing building or structure of any type or kind shall be moved into the Township or moved from one lot in the Township to another lot in the Township unless a Zoning Compliance Permit is issued by the Zoning Administrator. All such buildings shall meet the requirements of this Ordinance and the construction code as adopted by the Township and the landowner obtains such permits as may otherwise be required. The Township may require the posting of a bond or other cash security.

SECTION 3.20 EXCAVATIONS, HOLES, OR PONDS

- A. The construction, maintenance, or existence within the Township of any unprotected, unbarricaded, open, or dangerous excavations, holes, pits, or wells, which constitute or are likely to constitute a danger or menace to the public health, safety, or welfare, are hereby prohibited; provided, however, this Section shall not prevent any excavation under a permit issued by the Zoning Administrator where such excavations are properly protected and warning signs posted in such a manner as approved by the Zoning Administrator; and provided further, that this Section shall not apply to streams, natural bodies of water, or to ditches, reservoirs, and other bodies of water created or existing by authority of governmental units or agencies.

- B. This Section shall not include excavations related to approved operations for the removal and processing of topsoil, stone, rock, sand, gravel, lime or other soil or mineral resources.

SECTION 3.21 PONDS

- A. No person shall create or enlarge a pond or lake (whether by excavation, dam or otherwise) without first making application for and receiving a zoning compliance permit approving the specific plans for a pond or lake.
- B. Proposed ponds or lakes of less than one (1) acre in size shall be reviewed and approved by the Zoning Administrator and shall require a site plan.
- C. Proposed ponds (or artificial lakes) larger than one (1) acre in size shall be reviewed and approved by the Planning Commission as a special land use.
- D. Applications for ponds or lakes larger than five (5) acres and/or ponds or lakes which are located within 500 feet of a lake, river, stream, or open county drain shall be required to be submitted to the Michigan Department of Environmental Quality to determine the extent to which the Natural Resources and Environmental Protection Act, Public Act 451 of 1994, applies to the proposal.
- E. Plans for ponds or lakes shall indicate the size, depth, and proposed finished grade of the land both above and below water level, any proposed fencing location and specifications. In addition, the applicant shall indicate sources of water being used to supply the pond or lake (such as stream impoundment, surface water runoff, springs, and wells) and method of water discharge; the method of filtration and treatment of the water, if required.
- F. The slopes of the banks or sides of the pond or lake shall be constructed so that for each one (1) foot of rise there shall be a minimum of three (3) feet of run. This minimum slope angle must be maintained and extended into the pond to a depth of three (3) feet.
- G. No pond or lake shall be closer than fifty (50) feet from any property line, easements for egress, dwelling units, septic drainage fields and domestic wells.
- H. No pond or lake shall be constructed, installed or maintained which either causes or contributes to the erosion of any adjacent, abutting, or nearby lands.
- I. Ponds or lakes on parcels less than 20 acres in size may be required by the Township to be fenced by a minimum of a four (4) foot fence, and may be required to maintain one or more safety stations in compliance with the following:
 - 1. U.S. Coast Guard approved ring buoys securely connected to forty (40) feet of rope mounted on posts located at 500 feet intervals around the perimeter of the pond.

2. A twelve (12) foot long pole shall be attached to one safety station.
- J. No pond or lake shall be used or maintained unless adequate public health measures are periodically taken to insure that the existence and/or use thereof will not cause the spread of disease, stagnation or otherwise provide conditions dangerous or injurious to the public health.
- K. The discharge pipe from any pond or lake without a direct outlet to an established drain shall not exceed two (2) inches in diameter. The discharge pipe shall be constructed with galvanized iron or such other standard and durable material as may be approved by the Building Official.
- L. No pond or lake shall be wholly or partially emptied in any manner that will cause water to flow upon adjacent properties.

SECTION 3.22 OUTDOOR FURNACES

All outdoor furnaces shall be subject to the following regulations and requirements: A.

Minimum lot size shall be five (5) acres.

- B. Outdoor furnaces shall not be placed or utilized less than seventy-five (75) feet from any property line.
- C. Outdoor furnace installation requires a zoning compliance permit and shall also comply with the State Mechanical Code and other applicable codes or regulations.
- D. There shall be compliance with all other applicable Township ordinances.

SECTION 3.23 EXTERIOR LIGHTING

The following lighting standards shall apply to all uses requiring site plan review:

- A. Off-street parking areas shall be adequately lit to ensure security and safety.
- B. Light fixtures shall be provided with light cut-off fixtures that direct light downward. Lighting shall not be attached to buildings or other structures that permit light to be directed horizontally.
- C. Lighting shall illuminate only the parking lot or other areas approved for illumination by the Planning Commission.
- D. Site lighting fixtures shall be limited to thirty (30) feet in height.

SECTION 3.24 HOME OCCUPATIONS

- A. No person other than the resident occupants and one (1) employee who need not be a resident shall be engaged in the home occupation.

- B. The use of the dwelling unit for the home occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupants. The home occupation shall be operated entirely within the dwelling, but shall not, in any case, exceed a total floor area in the dwelling equal to not more than twenty percent (20%) of the ground floor area of the dwelling unit. No part of a home occupation use shall be conducted or occur outdoors or in an accessory building.
- C. There shall be no change in the outside appearance of the dwelling or premises, or other external visible evidence of the conduct of such home occupation.
- D. Any traffic generated by the home occupation shall not be so great as to cause serious adverse effects within or upon the surrounding neighborhood. Parking areas for a home occupation shall be located off the street and other than in a front yard setback area.
- E. No equipment or process shall be used in a home occupation which creates noise, vibration, glare, fumes, odors, or electrical interference detectable to the normal senses off the premises. In case of electrical interference, no equipment or process shall be used which creates visual or audible interference in any radio or television receivers off the premises, or cause fluctuation in line voltage off the premises.

SECTION 3.25 KEEPING OF ANIMALS

- A. One (1) head of livestock may be permitted on a lot with a minimum of two (2) acres. For every animal thereafter, an additional one-half (1/2) acre shall be provided unless the property owner can demonstrate compliance with Generally Accepted Agricultural and Management Practices (GAAMPS) adopted by the Michigan Department of Agriculture. GAAMPS compliance must be demonstrated by the owner of the property housing the animals.
- B. Where livestock are kept or allowed outside, a fence of adequate construction to keep all animals from leaving the premises shall be provided and properly maintained.
- C. Fenced animal paddock areas shall be a minimum of fifty (50) feet from any property line and one hundred (100) feet from any neighboring dwelling.
- D. Animal waste shall be managed so as not to be a hazard to health or a nuisance to neighbors.

SECTION 3.26 PRIVATE STREETS

- A. Purpose: The Township determines that it is in the best interest of the public health, safety, and welfare to regulate the construction, improvement, extension, relocation, and use of private streets. These provisions have been enacted to assure that private streets:

1. Will not be detrimental to the public health, safety, or general welfare;
2. Will not adversely affect the long term development policies of White River Township;
3. Will be designed and constructed with width, surface, and grade to assure the safe and unimpeded route of travel of private vehicles, police, fire, ambulance, and other safety vehicles;
4. Will be constructed so as to protect against or minimize soil erosion and prevent damage to the lakes, streams, wetlands, and natural environment of the township; and
5. Will be properly maintained.

B. Definitions: For the purposes of this Section, the following definitions shall apply:

1. “Driveway” means an undedicated, privately controlled and maintained path, drive, or way located entirely within a lot and it services only that lot.
2. “Frontage” means the continuous linear distance of that portion of a lot or parcel abutting upon a public or private street right-of-way.
3. “Safe and unimpeded route of travel” shall mean a roadway of adequate width to accommodate the safe, two-way passage of vehicles, and of sufficient construction to accommodate any fire, police, rescue, or other emergency vehicle which may be utilized by the Township.

- C. Frontage and Access:
1. All lots utilizing a private street shall have frontage on the private street for a distance equal to or greater than the minimum lot width required for a lot in the District in which the parcel is located.
 2. All private streets shall have direct access to a public street.

D. Permits:

1. No individual, association, corporation, or entity, either public or private, shall create, construct, or extend a private street (or private street easement or right-of-way) after the effective date of this Ordinance without first having obtained a Special Land Use approval and a private street permit from the Township. In addition to the general special land use standards, the Planning Commission shall also consider the following review standards:
 - a. Whether the private road meets the requirements of this Section.

- b. Whether the private street is reasonably necessary to be private, or if it would be in the best interest of the Township for the road to be a public road.
 - c. Whether the use of such private street has the potential to create conditions which may be detrimental to the health, safety or welfare of persons or property through the creation of hazardous or potentially hazardous situations.
2. The Building Inspector shall not issue a building permit for construction of any building or structure on lots served by a private street until construction of a private street meeting the requirements of this Ordinance has been completed and inspected.
3. The Zoning Administrator or his/her designee shall have the right to enter upon the property where the private street is, or will be, located to conduct inspections as may be necessary to enforce this Ordinance.
4. A permit for access to any public street shall be obtained from the Muskegon County Road Commission, Michigan Department of Transportation, or other approving authority, as required.
5. A Soil Erosion and Sedimentation Control permit shall be obtained from the appropriate Muskegon County administrative office, as may be required by Part 91 of the Natural Resources and Environmental Protection Act, Public Act 451 (1994), as amended.
6. All other required State of Michigan permits shall be obtained.
7. The Planning Commission may elect to have all design and construction plans reviewed by the Township's attorney, engineer, or planner prior to consideration of the application for the private street permit. E. Application:

An application for a private street permit shall contain the following:

1. A completed private street permit application and a special land use application, provided by the Township.
2. The name(s) of the owner(s) and any other parties having any legal interest in the private street and the property across which it is to be constructed.
3. A detailed written description of the development to be served by the private street.
4. Sufficient copies of a site plan which comply with the requirements of Chapter 15.

5. Proposed street names, including a letter from the Muskegon County Road Commission approving the name(s).
6. A survey of the right-of-way by a registered land surveyor, together with lot dimensions, frontage and required setback lines for each lot to be served by the private street.
7. The location of all public utility easements, including, but not limited to, water, sewer, telephone, gas, electricity, and television cable to be located within the private street right-of-way or within twenty (20) feet of either side thereof. Copies of the instruments describing and granting easements shall be submitted with the application.
8. The location of any lakes, streams, wetlands, and drains within the proposed right-of-way or within one-hundred (100) feet thereof.
9. The location of any other buildings and structures located, or to be located, within one-hundred (100) feet of the private street right-ofway.
10. A proposed maintenance agreement, as defined in this Section.

F. Design Requirements: A private street shall be located within a private street easement. The easement shall have a minimum width as prescribed in this Section. At a dead-end of such easement, the easement shall widen such that there is a minimum radius of sixty (60) feet for a residential use and seventy-five (75) feet for a nonresidential use.

1. A private street shall connect to a public street. The location, angle, elevation and approach of the connection shall be approved by the Muskegon County Road Commission.
2. A private street (or more than one private street which form a connected private street system) shall not contain more than two thousand (2,000) lineal feet of roadway unless the private street or private street system provides a second means of ingress and egress to a public road which meets the standards of this Ordinance. The measurement shall be made from the point where the private street abuts the public road right-of-way and shall be made along the centerline of the private roadway to the center of the turnaround radius for each portion or segment of the private street.
3. The plans for road construction must be approved by the Township Fire Chief, Engineer, and Planner. A private street shall also meet the following minimum requirements:

Lots Served	1 - 2	3 - 6	over 6
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Right of Way (ROW) or easement width	66 ft.	66 ft.	66 ft.
Width of traveled surface (centered within ROW)	12 ft.	22 ft.	22 ft.
Grade width	20 ft.	30 ft.	30 ft.
Subbase	6 inches of 95% compacted MDOT Class II granular material, to extend full width across grade	12 inches of 95% compacted MDOT Class II granular material, to extend full width across grade	12 inches of 95% compacted MDOT Class II granular material, to extend full width across grade
Base	Minimum, 4 inches of 98% compacted MDOT 22A aggregate	Minimum, 4 inches of 98% compacted MDOT 22A aggregate	6 inches of 98% compacted MDOT 22A aggregate
Surface	Base shall serve as surface	Base shall serve as surface	Bituminous mixture No. 13A, 2-1/2 inches thick, 275 #/s yd
Shoulder width	2 ft. each side	4 ft. each side	4 ft. each side
Maximum length	2,000 ft.	2,000 ft.	2,000 ft.
Maximum grade	8%	8%	8%
Minimum drainage slope from center of traveled surface to edge of grade width	5%	5%	2.5%

4. The layout of a private street and the intersections of a private street with either public or private street shall be such that clear vision, safe turning and travel in all directions at the posted speed limit is assured, as determined by the Township engineer.
5. The minimum distance between intersections of public and/or private street rights-of-way shall not be less than three-hundred (300) feet, as measured along the right-of-way line thereof.
6. The private street shall be constructed with stormwater runoff, culverts, and drainage contours as is required by the Township to ensure adequate drainage and runoff.
7. The method and construction technique to be used in the crossing of any natural stream, wetland, or drainage course shall satisfy the requirements of the Township engineer and any other agency having jurisdiction thereof.

8. The private street shall be given a name and street signs shall be installed in accordance with the standards and approval of the Muskegon County Road Commission prior to the issuance of any building permits for structures to be served by the private street.
 9. The private street addresses shall be posted in a conspicuous place at the entrance to the private street (at the intersection with the public road) in letters at least three (3) inches high. Private streets shall have a standard stop sign where the private street abuts the public road.
 10. Upon completion of construction of the private street, the applicant(s)/owner(s) shall remove and properly dispose of, any and all trees, shrubs, construction debris, and rubbish.
- G. Existing private streets: A private street existing on the effective date of this Ordinance may continue in existence and be maintained and used, although it may not comply with the provisions of this Section. An existing private street shall not be expanded (or new lots or parcels be created thereon) except in compliance with this Section. Any private street shall be continuously maintained so as to provide a safe and unimpeded route of travel for motor vehicle traffic, pedestrians, and emergency vehicles in all weather conditions.
- H. For any private street existing on the effective date of this Ordinance to which one (1) or more additional lots or parcels are created or otherwise permitted access, the entire length of the existing private street shall be upgraded to comply with the applicable requirements of this Section.
- I. Review standards; modification of certain requirements: Prior to approving a special land use for a private street and private street permit application, the Planning Commission shall determine that all of the following are met (in addition to the other special land use standards):
1. The proposed private street will not be detrimental to the public health, safety, or general welfare.
 2. The proposed private street will not adversely affect the use of land.
 3. That the private street is constructed to assure a safe and unimpeded route of travel for motor vehicle traffic, pedestrians, and emergency vehicles in all weather conditions.
 4. That the private street is constructed so as to protect against or minimize soil erosion and prevent damage to the lakes, streams, wetlands, and natural environment of the township.
 5. The construction of the private street will conform to the requirements of this Section.

6. The Planning Commission may require that the applicant comply with reasonable conditions relative to the design and construction of the private street.
 7. An authorization that if repairs and maintenance are not made, the Township may exercise a special assessment district to bring the road up to the design standards specified in this Ordinance and assess owners of parcels on the private road for the improvements, plus an administrative fee.
 8. The other general special land use standards are met.
- J. Modifications: Upon application, the Planning Commission may modify any of the private street requirements of this Section after finding that all of the following conditions exist:
1. Topography, soils, and/or other significant natural features physically preclude or prevent compliance with the requirements of this Section without substantial alteration of such natural features. These natural features shall be clearly identified and described in the application of any such modification.
 2. The justification of a modification is not due solely to financial considerations which, upon approval of the requested modification would provide a financial benefit.
 3. That no other reasonable private street design alternatives are available that would comply with the requirements of this Section.
 4. That the request for modification was reviewed by the Township Engineer, Fire Chief or Township Planner, or any other person or official designated by the Township Board. K. Disclosure:

The following statement shall be put in a deed restriction and recorded for any parcels serviced by a private street, before each parcel is sold: "This property does not abut or front on a public road. If a public road or street does not abut or service the property, it is private and is not required to be maintained by any governmental unit."

L. Maintenance and Repairs:

The applicant(s)/owner(s) of the proposed private street right-of-way or private street shall provide the Township with a recordable private street maintenance or restrictive covenant agreement between the owner(s) of the private street right-of-way and any other parties having any interest therein, or other documentation satisfactory to the Township which shall provide for and assure that the private street shall be regularly maintained, repaired, and snow plowed so as to assure

that the private street is safe for travel at all times and the cost thereof paid. The private street maintenance agreement (as approved by the Township) shall be recorded with the Muskegon County Register of Deeds records before construction commences on a private street and after it has been approved by the Township. The private street maintenance agreement must be approved by the Township after consultation with the Township Attorney and shall address:

1. That the private street shall be maintained in a manner that complies with the provisions of this Section.
2. All driveways and private streets shall be continuously maintained to not constitute a danger to the health, safety, and welfare of the inhabitants of the township and to assure a safe and unimpeded route of travel for motor vehicle traffic, pedestrians, and emergency vehicles in all weather conditions.
3. All costs for maintenance and repair of the private street shall be the responsibility of the property owners or any property owners association served by the private street. M. Performance Guarantee:

The Planning Commission may, as a condition of the private street construction permit, require that the applicant provide a performance guarantee, in accordance with the provisions of the Zoning Act and this Ordinance. N. Inspections/Certificate of Compliance:

1. The Zoning Administrator or his/her designee shall have the right to enter upon the property where the private street is, or will be, located to conduct such inspections as may be necessary to enforce this Section.
2. The applicant(s), at the applicant(s)'s expense, shall provide the Township with a set of "as built" drawings bearing a certificate and statement from a registered engineer certifying that the private street has been completed in accordance with the requirements of the permit and the Road Commission.
3. If the completed private street does not satisfy the requirements of the permit, special land use approval or this Ordinance, the applicant(s) shall be notified of the noncompliance in writing and shall be given a reasonable period of time within which to correct the deficiencies. Failure to correct the deficiencies within the time provided shall constitute a violation of this Ordinance.
4. Fees for the permits required hereunder shall be set by the Township

Board from time to time by resolution. Additionally, the Township Board may require that the applicant(s) put sufficient funds in escrow to cover the costs of having the Township attorney, engineer, planner, or other professional review the private street plans, specifications, and maintenance agreements, to do the necessary inspections and for other work done by the Township.

SECTION 3.27 CLEARING OF LAND

Unless associated with a bona fide forestry, agricultural practice or public works project (such as the installation of utilities or other similar activities conducted by, or on behalf of the state, federal government, county, or the Township), it shall be unlawful for any person to engage in land clearing of over one (1) acre, including the stripping and removal of topsoil or existing vegetation, from any site, parcel, or lot within White River Township without first obtaining a zoning compliance permit.

SECTION 3.28 SITE CONDOMINIUMS

- A. A site condominium unit shall be a unit created by the division or development of land on the basis of condominium ownership pursuant to the Condominium Act, Public Act 59 of 1978, as amended, and which is generally not subject to the provisions of the Land Division Act, Public Act 288 of 1967, as amended.
- B. A site condominium unit shall be treated as a separate lot or parcel and may have buildings constructed and uses conducted thereon as allowed in the District where it is located provided the unit meets the District regulations for the zoning district in which it is located as well as all other requirements for a lot.
- C. A site plan, including all the condominium documents required for the establishment of a condominium, shall be reviewed and approved by the Planning Commission in accordance with Chapter 15.

SECTION 3.29 RIPARIAN ACCESS

- A. It is the intent of this Section to promote the integrity of the lakes and rivers within the Township, while preserving the quality of recreational use of the inland waters; to protect the quality of the lakes and rivers by discouraging excessive use; to promote the ecological balance of the waters by limiting incompatible land use of the wetlands associated with the lakes and rivers; and to maintain the natural beauty of the lakes and rivers by minimizing man-made adjustments to the established shorelines. Nothing in this Section shall be construed to limit access to lakes, rivers or waterways by the general public by way of a public park or public access site provided or maintained by any unit of state, county or local government.

- B. The following restrictions are intended to limit the number of users of lake or river frontage in order to preserve the quality of the waters, to promote safety, and to preserve the quality of recreational use of all waters within the Township.
1. In all zoning districts, there shall be at least one hundred and fifty (150) feet of lake, river, or stream frontage as measured along the ordinary high water mark of the lake, river, or stream for each singlefamily home, dwelling unit, cottage, condominium unit, site condominium unit, or apartment unit utilizing or accessing the lake, river, or stream frontage.
 2. Any multiple-unit residential development in any zoning district that shares a common lake, river, or stream front area or frontage shall not permit lake, river, or stream use or access to more than one (1) single-family home, dwelling unit, cottage, condominium unit, site condominium unit, or apartment unit for each one hundred and fifty (150) feet of lake, river, or stream frontage in such common lake, river, or stream front area, as measured along the ordinary high water mark line of the lake, river, or stream.
 3. Any multiple-unit residential development shall have not more than one (1) dock for each one hundred and fifty (150) feet of lake, river, or stream frontage, as measured along the ordinary high water mark of the lake, river, or stream, in any zoning district in the township. All such docks and docking or mooring shall also comply with all other applicable Township ordinances.
 4. The above restrictions shall apply to all lots and parcels on or abutting any lake, river, or stream in all zoning districts, regardless of whether access to the lake, river, or stream waters shall be by easement, park, common-fee ownership, single-fee ownership, condominium arrangement, license, lease, or other arrangement.
 5. In all zoning districts, no lake access, boat ramp, shore station, dock, boat launch, or shoreline abutting a lake shall be utilized for commercial, business, outdoor recreational (or entertainment) facilities, institutional or nonresidential or nonagricultural uses or purposes unless such use is allowed in the zoning district where the property is located and is also authorized pursuant to a special use approval or a planned unit development (PUD) approval.
 6. The lake, river, and stream access and use regulations contained in this section shall be fully applicable to all planned unit development (PUD) and special land use projects or developments.
 7. Refer to other applicable Township ordinances for other keyhole development regulations.

8. In addition to the above limitations, no easement, private park, common area, lot or access property abutting or adjoining a lake, river, or stream shall be used to permit access to the lake, river, or stream for more than one (1) single-family home, dwelling unit, condominium unit, site condominium unit, apartment unit or any other use unless such additional access use is approved as a special land use (and meets the requirements of the zoning district involved) or as a planned unit development (PUD).
 9. The minimum water frontage requirements of this Section shall be doubled if more than fifty percent (50%) of the water frontage of the property involved is comprised of or adjoins a wetland as defined by Michigan or federal law.
 10. If a property is located within a zoning district where the minimum lot width requirement is greater than one hundred and fifty (150) feet, then the minimum water frontage requirements of subsections 1, 2 and 3 hereof shall be increased so as to equal the minimum lot width requirement of the zoning district in which the property is located.
- C. No canal or channel shall be dug, created or constructed adjacent to or involving any lake.
- D. Private boat ramps, boat launches and similar items are prohibited.

SECTION 3.30 STORAGE OF RECREATION VEHICLES AND EQUIPMENT

Recreational vehicles and equipment may be located outside of an enclosed building on any lot within a Residential District provided that all of the following requirements are met:

- A. If located on an interior lot, recreational equipment shall not be located within the required front yard. If located on a corner lot, recreational vehicles and equipment shall not be located in the side yard facing the street. If located on a through lot, recreational equipment shall not be located in the front yard, or in a rear yard setback.
- B. Notwithstanding the provisions of this Section, recreational vehicles and equipment may be parked within any yard, but not within the required yard or setback areas, for cleaning, loading, or unloading purposes for not more than seventy-two (72) hours within any seven (7) day period.
- C. Recreational vehicles and equipment may be used for living or housekeeping purposes for a period not exceeding fourteen (14) days in any calendar year, provided that running water or indoor sewage facilities within such equipment is not utilized and provided that the storage requirements of this Section are met.

- D. Where physical features of a property, such as, but not limited to, immovable structures, or a tree with a diameter of four (4) inches or greater, prohibit a recreational vehicle from being parked in compliance with this Section, the owner may apply to the Zoning Administrator for permission to park the recreational vehicle on the lot. This permission shall be granted, provided that the following requirements are met:
1. An application for permission shall be accompanied by a site plan, drawn to scale, showing the reasons why the recreational vehicle cannot be parked in compliance with this Section. A filing fee, which shall be set by the Township Board by resolution, shall also be required.
 2. A twenty (20) foot setback shall be maintained from the recreational vehicle to the edge of the road.
 3. Parking approval, if granted by the Zoning Administrator, shall be effective for three (3) years following the date of issuance. Further approvals may be granted by the Zoning Administrator in accordance with this Section.
- E. Recreational equipment shall not be stored, kept or utilized on any lot or property which does not have a lawful habitable, permanent residential dwelling building for more than fourteen (14) days during any calendar year.

SECTION 3.31 STORAGE AND REPAIR OF VEHICLES

- A. The carrying out of repair, restoration and maintenance procedures or projects on vehicles in any Residential District, when such work is not conducted entirely within the interior of a building, shall be subject to the following limitations:
1. Procedures or projects exceeding forty-eight (48) hours in duration or which require the vehicle to be immobile or inoperable in excess of forty-eight (48) hours shall be carried out entirely within a garage. Only one such period shall be permitted within a single thirty (30) day period.
 2. Inoperable or unlicensed vehicles and vehicle parts shall be stored entirely inside of a building.
 3. It shall be unlawful for the owner, tenant or lessee of any lot in a Residential District to permit the open storage or parking outside of a building of: mobile homes not used as dwellings semi-tractor trucks and/or semi-trailers, bulldozers, earth carriers, cranes or any other similar equipment or machinery, unless parked thereon while in use in construction actively being conducted on such lot.

SECTION 3.32 OUTDOOR MATERIAL STORAGE AND WASTE DISPOSAL

- A. All lawful outdoor storage facilities utilized in connection with nonresidential activities shall be enclosed by a solid fence or wall of not less than six (6) and no more than eight (8) feet in height which is adequate to conceal such facilities from adjacent properties and from public view.
- B. If materials or wastes are stored outside which might cause fumes, odors and dust or which constitute a fire hazard or which may be edible by rodents or insects, then such materials shall be stored only in closed containers and screened from public view and adjacent properties.
- C. No materials or wastes shall be deposited on a lot or property in such form or manner that they may be moved off the lot or property by natural causes or forces.
- D. Waste materials shall not be allowed to accumulate on a lot or property in such manner as to be unsightly, constitute a fire hazard or contribute to unsanitary conditions.

SECTION 3.33 CONTROL OF HEAT, GLARE, FUMES DUST, NOISE, VIBRATION AND ODORS

Every use shall be so conducted and operated that it is not obnoxious or dangerous by reason of heat, glare, fumes, odors, dust, noise or vibration beyond the lot on which the use is located.

SECTION 3.34 HEALTH DEPARTMENT APPROVAL

No permit shall be issued for the construction of a building which is to have drinking water and/or sanitary facilities unless the site is served by both public water and sewer facilities, or unless a permit has been issued by the Muskegon County Health Department for private water supply and/or sewage disposal facilities.

SECTION 3.35 TEMPORARY CAMPING

- A. Campgrounds authorized by the Township and licensed by the State of Michigan shall not be subject to the requirements of this Section.
- B. Temporary camping in residential districts shall be subject to the following:
 - 1. On properties that are less than one (1) acre in size, one (1) tent or recreational vehicle may be used for camping for up to fourteen (14) calendar days in any thirty (30) day period without a temporary camping permit. On properties that are at least one (1) acre in size, up to four (4) tents or recreational vehicles may be used for camping

for up to fourteen (14) calendar days in any thirty (30) day period without a temporary camping permit.

2. In no case shall there be more than four (4) recreational vehicles per lot or parcel.
3. Temporary camping exceeding fourteen (14) calendar days in any thirty (30) day period shall require a temporary camping permit. The Zoning Administrator may issue a temporary camping permit for up to thirty (30) days. A temporary camping permit shall include a fee of \$100.00 per year, or as may be set by the Township Board by resolution.
4. The Zoning Administrator may impose conditions to protect the general health, safety, and welfare of the occupant of the tent or recreational vehicle and surrounding neighbors. When imposing conditions the Zoning Administrator shall consider, but not be limited to, the following:
 - a. The size of the subject property.
 - b. The proposed location of the camping area on the property and its proximity to neighboring properties and homes.
 - c. The density of homes in the vicinity.
 - d. The number of tents or recreational vehicles to be placed on the property
 - e. The proximity to surface water and other natural features and the relative risk of damage to natural features.
 - f. Limits on the number and/or location of tents or recreational vehicles based on the size and configuration of the subject property and neighboring properties.
5. The Zoning Administrator may approve up to two (2) thirty (30) day extensions of the temporary camping permit.
6. All campers shall comply with the following rules:
 - a. Quiet hours shall be maintained between the hours of 11:00 p.m. and 7:00 a.m.
 - b. All camping activities shall be set back at least fifty (50) feet from the ordinary high water mark of any water body.
 - c. Temporary camping permit(s) shall be issued to or renewed by the property owner.

- d. No temporary camping permits will be issued to individuals under eighteen (18) years of age.
 - e. Upon termination of camping all equipment and supplies must be removed. Garbage and refuse must be removed after each stay.
 - f. Areas used for temporary camping as well as any adjacent lands must be kept in a neat, clean and sanitary condition. Sanitary waste facilities shall be provided, through self-contained units or porta-potties.
 - g. In-ground septic facility, water well, or electricity shall not be permitted on a lot without a principal structure.
 - h. Recreational campfire areas shall be contained by a fire ring. Burning permits shall be obtained when required and fires shall be adequately monitored and contained. The campfire shall not constitute a nuisance to neighboring properties due to the size or location of the fire, excessive smoke, or noxious items being burned.
 - i. Camping activities shall not be a nuisance to surrounding property.
- C. Failure to comply with the requirements of this Section is a violation of the Zoning Ordinance and subject to Remedies and Enforcement regulations of Section 21.04.

SECTION 3.36 TEMPORARY EVENTS

No temporary event shall occur in any District unless and until a temporary event permit has been issued by the Township. The following requirements shall apply:

- A. All applications for a temporary event permit shall be filed with the Township at least sixty (60) days prior to the commencement date of the proposed temporary use. This sixty (60) day period can, however, be shortened in the discretion of the Zoning Administrator or the Planning Commission, for good cause shown by the applicant.
- B. The Township Zoning Administrator may issue a temporary event permit if all of the requirements of subsection C are satisfied. If the Zoning Administrator determines that a proposed temporary event would have a major impact on the Neighborhood or area involved, or if the Zoning Administrator determines that a hearing should be held before a temporary event permit is issued, because of the scope or likely impact of the scope or likely impact of the proposed temporary event, then the Zoning Administrator shall refer the temporary event permit application to the Planning Commission. If a temporary use permit application is referred to the Planning Commission, it shall hold a hearing on the application, complying with all hearing requirements.

- C. A temporary event permit shall not be granted by the Zoning Administrator or by the Planning Commission unless all of the following requirements are satisfied:
1. Nuisance, hazardous features. The temporary event shall not result in any hazard or nuisance to adjacent lands or the uses thereof, nor otherwise be contrary to the public health, safety or welfare of the Township.
 2. Traffic and circulation. The temporary event shall not create hazardous vehicle or pedestrian traffic conditions on or adjacent of the streets serving the property. A temporary event permit shall not be issued if the Zoning Administrator or Planning Commission determines that the proposed use will:
 - a. Unreasonably interfere with the use of a street for vehicular travel;
 - b. Unreasonably interfere with the view of access to or use of property adjacent to the street serving the proposed temporary use;
 - c. Cause a violation of any state laws or local ordinances; or
 - d. Reduce the effectiveness of or access to any utility pole, street lighting, sign or other traffic control device.
 3. Public facilities and services. Adequate utilities, drainage, refuse management, sanitary facilities. Emergency services and access and other necessary facilities and services shall be available for the proposed temporary event.
 4. Natural environment. The proposed temporary event shall not have a substantially adverse impact on the natural environment.
 5. Suitability of the site. The site of the proposed temporary event shall be suitable for such temporary event, giving consideration to possible flood hazards, storm water.
 6. Building, electrical and other codes. The temporary event and all associated temporary improvements, including, but not limited to tents, stands, temporary electrical system , temporary heating systems, and temporary lightning systems shall comply with all applicable provisions of the Township Building Code, Electric Code, and other applicable codes as adopted or amended from time to time.
- D. A temporary event shall be permitted only for such period of time as is practical, given all of the circumstances. In no case shall a temporary event permit be issued for a period in excess of eighteen (18) days during any twelve (12) month period, nor shall any property be used for a temporary event in excess of eighteen (18) days during any twelve (12) month period.

- E. In connection with the approval of any temporary event, the Township may impose additional reasonable terms and conditions.
- F. The Township may revoke or suspend a temporary event permit at any time upon the failure of the owner or any operator of the event to comply with the requirements of this Ordinance, the conditions imposed upon the issuance of any such temporary event permit, or any applicable provisions of state law or local Ordinance.

SECTION 3.37 DRAINAGE

During the construction process, both the owner of the property involved and the contractor doing the work shall be jointly and severally responsible and liable for storm water runoff, flooding, or other water problems or damages to other properties or public roads caused by or attributable to such construction. The Zoning Administrator shall have the authority to suspend or revoke a zoning permit should the requirements of this section be violated. No such suspended or revoked zoning permit shall be reinstated until the property owner posts monetary security with the Township as determined by the Zoning Administrator. Once construction has been completed and thereafter, the owner of the property involved shall be responsible for ensuring that drainage and storm water from that property do not adversely impact adjoining properties, lakes, streams, or wetlands.

SECTION 3.38 RESTORING UNSAFE BUILDINGS

Nothing in this Ordinance shall prevent the strengthening or restoring to a safe condition of any part of any building or structure declared unsafe by the Building Inspector, or required compliance with his lawful orders.

SECTION 3.39 CONVERSION OF DWELLINGS

The conversion of any building into a dwelling, or the conversion of any dwelling so as to accommodate an increased number of dwelling units or families, shall be permitted only within a district in which a new building for similar occupancy would be permitted under, this Ordinance and only when the resulting occupancy will comply with the requirements governing new construction in such district with respect to minimum lot size, lot area per dwelling unit, dimensions of yards and other open spaces, and offstreet parking.

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3.40

LAWFUL NONCONFORMING HOTELS, RESORTS, RESTAURANTS, AND GROCERY STORES.

- A. Repair: Lawful nonconforming hotels, resorts, restaurants, and grocery stores may be repaired, subject to the following regulations:
1. Repairs and maintenance work necessary to keep the existing buildings and structures in a safe and sound condition may be done as long as the footprint and exterior dimensions of such buildings (as such buildings lawfully existed as of the effective date of this Ordinance) remain unchanged and no expansion occurs.
 2. Any lawful building or buildings damaged or destroyed by accidental fire, explosion, or act of nature may be repaired, restored, or rebuilt to the exact exterior dimensions as such building or buildings existed before the fire, explosion, or act of nature as long as the exterior dimensions and footprint of such building or buildings existing at the date of adoption of this Ordinance remain unchanged.
- B. Additions, Expansions, and New Construction – Hotels, Grocery Stores, and Restaurants: The construction of a new building (including a new building inside of an existing building), or the expansion of a lawful existing building for a lawful nonconforming hotel, restaurant, or grocery store, may be allowed as a Special Land Use, subject to review and approval by the Planning Commission under the provisions of Chapter 16, and shall also be subject to the following conditions:
1. Additions to existing buildings and new buildings shall comply with all present front, side, and rear setback requirements.
 2. One (1) parking space shall be provided for each additional lodging accommodation.
 3. If such addition or new construction is proposed in the CDO Zoning District, the provisions of that district applicable to setbacks shall apply.
- C. Repair, Rebuilding, and Expansion of Certain Single-Family Dwellings. If a single-family dwelling is located on the lot on which a hotel or resort is located, and if the dwelling is occupied exclusively by the owner, caretaker, or manager of the hotel or resort (with no rental to others), then the dwelling may be repaired, rebuilt, and expanded as long as such repair, rebuilding, or expansion complies with the provisions of this Ordinance applicable to single-family dwellings.

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- D. Occupancy. No person (other than an owner or manager of a hotel or resort, or an owner's or manager's immediate family) shall reside for more than three hundred sixty (360) days in any hotel or resort within any calendar year.

3.41 CONVERSION OF A LAWFUL NONCONFORMING DWELLING OR STRUCTURE, OR OTHER PROPERTY INTO A CONDOMINIUM, CONVERSION CONDOMINIUM, OR OTHER CREATION OF A LOT

- A. Generally. No dwelling, building, or property shall be converted into a lot, condominium unit, or the equivalent unless the lot, condominium unit, or the equivalent meets all minimum lot size, area, width, road frontage, and other area and dimensional requirements applicable to a new lot or parcel within the zoning district where the property is located. Furthermore, every dwelling, building, and structure within such lot, condominium unit, or the equivalent shall meet all setback, density, and other requirements for a new building and structure in the zoning district where the property is located. Additionally, no lot, condominium unit, or parcel shall be created (whether or not a dwelling or building exists on the proposed lot or parcel) unless all minimum lot area, size, width, road frontage, density, and setback requirements are met for the zoning district where the property is located. Any conversion creating or altering a condominium unit (or the equivalent) or the creation of a lot or parcel pursuant to this section must be approved pursuant to the requirements of the Township's land division ordinance, as amended. No common area, common element, private road, shared driveway, or parking area shall be created pursuant to the conversion of any existing property, building, or dwelling to a condominium unit (or the equivalent) or the creation of a lot or parcel under this section unless approved by the Planning Commission pursuant to the special land use review and approval process.
- B. Existing multi-family buildings. Where a lawful building exists which contains two or more dwelling or residential units, apartments, or the equivalent, no portion of that building or property shall be converted to a condominium, conversion condominium, or the equivalent unless approved as a Special Land Use by the Planning Commission. If such conversion is approved by the Planning Commission as a Special Land Use, the minimum lot size, area, and width requirements of the zoning district for which the property is located need not be met even though each new condominium unit or the equivalent if approved would constitute a "lot" under the definitional requirements of this Ordinance. Further, the setback requirements for each lawful nonconforming multi-family building or structure within the zoning district where the property is located need not be met after a condominium conversion given that any units in a building with two or more residential units would not have any setback or space located between units and boundary lines as would normally be required for conventional lots.

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3.42 PROHIBITION ON MEDICAL MARIJUANA DISPENSARIES, COMPASSION CLUBS AND PROVISIONING CENTERS.

No medical marihuana dispensary, compassion club or provisioning center shall be commenced, conducted, maintained, operated or utilized anywhere within the Township or on or from any property, land, building or structure within the Township. Furthermore, no person shall frequent, patronize or obtain or purchase any marihuana from or through any medical marihuana dispensary, compassion club or provisioning center within the Township. Such prohibition shall also apply to any grower operation, secure transporter, safety compliance center or processing center as defined by state law.

SECTION 3.43 NO APPROVAL FOR ILLEGAL USES.

No zoning approval, permit, variance, rezoning, site plan approval or zoning compliance permit shall be issued or granted by the Township for any use, activity, structure or building that is illegal under Michigan law or Township ordinance.

SECTION 3.44 NO ZONING APPLICATIONS, APPROVALS OR PERMITS FOR A PROPERTY THAT IS IN VIOLATION OF THIS ORDINANCE OR A COURT ORDER OR JUDGMENT.

Should a parcel or lot be in material or substantial violation of any provision of this Ordinance (or a court order or judgment regarding this Ordinance or the use of the land), then the Township shall not accept, process or approve any request or application by the landowner(s) of the lot or parcel in violation (or anyone else with an interest in the property in violation) unless and until the existing violation or violations of this Ordinance (or the violation or violations of a court order or judgment regarding this Ordinance or the use of the land) have been fully corrected and the parcel or lot complies fully with this Ordinance (and any applicable court order or judgment). The prohibition contained in this Section shall also apply to any zoning request, application or petition, including requests for a zoning approval, rezoning, variance, special land use, temporary use, site plan, permit or other approval that is unrelated to the violation or violations of this Ordinance (or of any applicable court order or judgment) on the lot or parcel involved. The prohibition contained in this Section shall be in addition to (and not exclusive of) any other remedies available to the Township for the enforcement or administration of this Ordinance (or any court order or judgment) and shall be in addition to any other penalties, sanctions or proceedings available at law or equity against the

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landowner(s) or any other person, firm or entity in violation of this Ordinance (or any court order or judgment).

3.45 SOLAR PANELS, PHOTOVOLTAIC PANELS AND SIMILAR ITEMS.

In all zoning districts, solar panels, photovoltaic panels and similar electric or heat generating items (collectively, “solar panels”) are allowed outdoors and on the exterior of buildings or structures so long as such solar panels, photovoltaic panels or similar items do not comprise more than 20,000 square feet of surface area. All other solar panels, photovoltaic panels and similar items are allowed (i.e. where not mounted on a building) if the Planning Commission approves a special land use for such solar panels, photovoltaic panels or other similar items. Reasonable conditions may be attached by the Planning Commission to any special land use approval for such solar panels, photovoltaic panels or other similar items. No solar panel, photovoltaic panels or similar item approved via a special land use approval shall be located within 600 feet of any house or residential dwelling located on a lot or parcel other than where the solar panels, photovoltaic panels or similar items are located. No solar panels, photovoltaic panels or similar items shall cover more than 20% of the lot or parcel where such items are located. Every solar panel, photovoltaic panel and similar item which is not mounted on a building shall be at least 15 feet away from any side lot line, 25 feet from the rear lot line and not be located within the front yard setback area.

SECTION 3.46 SHORT-TERM RENTALS (Adopted February 6, 2025)

- A. There shall be no more than 55 STR Lots in total within White River Township (except for those in the C-Neighborhood Commercial zoning district).
 - 1. Areas zoned as C-Neighborhood Commercial – For properties located in areas zoned as C-Neighborhood Commercial, there is no limit on STR Lots and shall not be counted for purposes of the 55 STR Lots maximum.
 - 2. There shall be no other STR Lots within White River Township except for the areas and numbers as expressly allowed above.
- B. For purposes of which STR Lots come within the allowed totals specified in Subsection A hereof above, priority shall be given to those STR Lots (and the

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STR activities and usage on such lots) which have been lawfully operating within the Township for the longest consecutive and continued period of time. Any STR Lot with an existing STR use, activity or structure which has had any of the following characteristics shall not be deemed lawfully in existence for purposes of the allowed or allocated total number of STR Lots:

1. The STR dwelling or living unit has been a shed or a trailer, boat, tent, yurt, mobile home or other non-stick built dwelling.
2. The STR dwelling has been rented to or used by more than one family at a time.
3. The dwelling or lot has been used as or for a commercial wedding venue, reunion, party or other gathering or activity which is commercial in nature or for profit.
4. The dwelling has not met applicable building codes, fire safety codes or the maintenance code.

* * *

After the effective date of the amendment that added this section to this Ordinance, if any STR Lot has not actually been rented or leased as an STR for three (3) consecutive years or longer, it shall lose its priority for purposes of Subsections A and B, above.

C. None of the following shall be used as an STR Lot nor be rented or leased for use, habitation or lodging as an STR (or otherwise) unless it is part of an approved lawful campground (and such campground use was or is expressly approved pursuant to a Township zoning approval):

1. Any tent, bunkhouse, yurt, shed, barracks or similar item.
2. Any boat, pontoon, houseboat, barge or other water vessel or watercraft.
3. Any "tiny house" or any dwelling that does not meet the minimum dwelling size requirements of this Ordinance.
4. Any house, dwelling, cottage or cabin that was unlawfully built, expanded or modified.
5. Any camping trailer, recreation vehicle, popup trailer, bus, motorhome or similar item or vehicle.
6. Any lot or parcel with two (2) or more dwellings thereon. However, on a lot or parcel with two (2) lawful dwellings thereon, one (1) dwelling may be used as an STR if all of the following requirements are met:
 - i. The dual dwelling lot or parcel must be a lawful nonconforming use. If the second dwelling was added illegally (and in violation of the then-existing zoning regulation), then an STR use will not be allowed on the lot or parcel.

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- ii. Only one of the two dwellings can be used for STR use.
 - iii. The owner of the lawful nonconforming lot or parcel must reside within one of the two dwellings and shall supervise the STR use in the other dwelling.
 - 7. Any lot of parcel accessed by or on a joint driveway, access easement or private road.
 - 8. Any dwelling or structure that does not comply with all applicable Zoning Ordinance requirements, building codes, fire safety codes and the maintenance code.
- D. Every STR and STR Lot shall fully comply with the White River Township Zoning Ordinance and also with every other White River Township ordinance that licenses or regulates STRs and STR Lots.
- E. No STR Lot or dwelling shall be occupied or used by more than one (1) family at a time.

CHAPTER 4 DISTRICTS ESTABLISHED

SECTION 4.01 DISTRICTS

White River Township is hereby divided into the following Districts.

SECTION 4.02 ZONING MAP

- A. The locations and boundaries of the Districts are hereby established as shown (and incorporated herein) on a map, as the same may be amended from time to time, entitled "The Zoning Map of White River Township, Muskegon County, Michigan," which map accompanies and is hereby made a part of this Ordinance. The following are the Districts:

AR	Agricultural	Chapter 5
R	Residential	Chapter 6
WR	Waterfront Residential	Chapter 7
MHP	Manufactured Home Park	Chapter 8
C	Commercial	Chapter 9
LI	Light Industrial	Chapter 10
LC	Chemical Industrial	Chapter 11
PUD	Planned Unit Development	Chapter 12
CDO	Critical Dune Overlay	Chapter 13
FOD	Flood Overlay	Chapter 14

Where uncertainty exists as to the boundaries of Districts as shown on the zoning map, the following rules of construction and interpretation shall apply.

1. Boundaries indicated as approximately following the centerline of streets, highways, or alleys shall be construed to follow such centerlines.
2. Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines.
3. Boundaries indicated as approximately following township boundaries shall be construed as following township boundaries.
4. Boundaries indicated as approximately following shorelines or lake or stream beds shall be construed as following such shorelines or lake or

stream beds, and in the event of change in the location of shorelines or lake or stream beds, shall be construed as moving with the shoreline and lake or stream bed.

5. Lines parallel to streets without indication of the depth from the street line shall be construed as having a depth of two hundred (200) feet from the front lot line.
 6. Boundaries indicated as approximately following property lines, section lines or other lines of a government survey shall be construed as following such property lines, section lines or other lines of a government survey as they exist as of the effective date of this Ordinance or applicable amendment thereto.
- B. Where the rules of construction and interpretation of Section 4.02A do not resolve the location of the zoning boundary, the Zoning Board of Appeals shall set the location of the boundary, provided that the Board shall not have the authority to change the zoning designation of any property.
- C. Whenever all or part of a street or other public way is vacated, it shall automatically become a part of the District to which it attaches. If a vacated area is bordered by two different Districts, the area shall be divided along a line halfway between them according to the adjacent District.

SECTION 4.03 AREAS NOT INCLUDED WITHIN A DISTRICT

Land not included within a District on the zoning map shall be considered to be in the R Residential District.

SECTION 4.04 USES NOT DESIGNATED

- A. When a use or activity is not stated or specified in this Ordinance, the Zoning Administrator may either interpret the use or activity as being substantially similar to those allowed in the District or request the Zoning Board of Appeals to make a determination at its next regular meeting or at a special meeting called for that purpose. The Zoning Administrator or Board of Appeals, as applicable, shall also determine whether the use or activity is a special land use or a use permitted by right. An applicant may also petition the Township for an amendment to the Zoning Ordinance to address the use or activity being considered. If new ordinance language is necessary to address a use not otherwise classified in the ordinance, it has been determined to be an appropriate use for the township, and the township determines that there is a demonstrated need not otherwise reasonably accommodated in the region, then the Planning Commission shall develop the amendatory language to address the use or activity being considered.

- B. The Zoning Administrator or Board of Appeals, as applicable, shall base the decision on a finding that the proposed use:
1. Is not specifically listed in any other District.
 2. Is generally consistent with the Intent of the District and this Ordinance, as well as the Master Plan.
 3. Will not impair the present or potential use of other properties within the same District or in the vicinity.
 4. Has no greater potential impact on surrounding properties than those listed in the District, in terms of aesthetics, traffic generated, noise, potential nuisances, and other impacts related to health safety and welfare.
 5. The proposed use or activity shall comply with the review and approval requirements and district regulations that apply to similar authorized uses.

CHAPTER 5 AR AGRICULTURAL DISTRICT

SECTION 5.01 DESCRIPTION AND PURPOSE

This District is intended to primarily conserve and protect lands determined suitable for farming operations and to foster the rural character of the Township. The District shall also accommodate very low density residential development and other uses generally associated with agricultural and rural residential uses. As a recognized agricultural district, certain impacts such as odors, noise, application of chemicals, and other external impacts typically associated with farming operations shall be recognized and reasonably tolerated provided they do not pose a threat to the general health, safety, and welfare of Township residents.

SECTION 5.02 PERMITTED USES

Land and/or buildings in the AR District may be used for the following purposes as Permitted Uses, subject to the approval of a site plan in accordance with the requirements of Chapter 15.

- A. Farms for both general and specialized farming, together with farm dwelling and buildings and other installations useful to such farms, including roadside stands with less than two-hundred (200) square feet of sales area for produce grown on the premises.
- B. Sale of animal feed, seed, fertilizers, and related farm products when conducted as part of a bona fide farming operation and when located on the premises of said farming operation.
- C. Single-family dwellings, including home occupations as regulated by Section 3.24.
- D. State licensed residential family care facilities; provided that such facility is not located closer than one-thousand five hundred (1,500) feet from an existing or proposed similar state licensed residential facility, including group care facilities, but not including state licensed residential facilities caring for six (6) or fewer minors.
- E. Family day care homes.
- F. Accessory buildings, structures and uses customarily incidental to a Permitted Use meeting the requirements of Section 3.08.
- G. Short-Term Rentals (with limits as set forth elsewhere in this Ordinance).

SECTION 5.03 SPECIAL LAND USES

Land and/or buildings in the AR District may be used for the following subject to approval by the Planning Commission as a Special Land Use in accordance with the procedures of Chapter 16.

- A. Outdoor recreational uses, country clubs, golf courses, riding stables, hunting clubs, gun clubs, and publicly-owned athletic grounds and parks, and other similar uses, including related uses, such as snack bars, pro-shops, restaurants, small retail shops selling goods directly related to the primary use, and other similar uses integral to the main use.
- B. Farm Markets.
- C. Cemeteries.
- D. Commercial greenhouses and nurseries.
- E. Removal and processing of topsoil, stone, rock, sand, gravel, lime or other soil or mineral resources.
- F. Public or private campgrounds.
- G. Schools, churches, libraries, parks, playgrounds and community center buildings.
- H. Group day care homes.
- I. Sawmills.
- J. Produce or vegetable packaging or processing plant.
- K. Sale of animal feed, seed, fertilizers, and related farming products.
- L. Utility and public service buildings, including storage yards.
- M. Intensive Livestock Operations.
- N. Open Space Preservation Developments.
- O. Farm Labor Housing.
- P. Veterinary hospitals, animal clinics, and kennels.
- Q. Wireless communication towers.
- R. Two-family dwellings.
- S. Artificial lakes.

- T. Agricultural and livestock processing or packaging when located on the same lot where the agricultural produce or livestock is grown or raised.
- U. Farm implement and supplies stores or businesses.
- V. Home occupations.
- W. Kennels.
- X. Wind Energy Conversion Systems (WECS).
- Y. Private airstrips for planes.

SECTION 5.04 SCHEDULE OF AR DISTRICT REGULATIONS

No building, structure, or principal use of land, nor the enlargement of any building, structure, or use of land, nor the creation of a lot or parcel, shall hereafter occur unless all of the following requirements are met and maintained in connection with such building, structure, use, or enlargement. (Refer to Chapter 16 for additional requirements for Special Land Uses.)

AR DISTRICT REQUIREMENTS	
FRONT YARD	40 feet
SIDE YARD	15 feet each side
REAR YARD	25 feet
BUILDING HEIGHT	Maximum 2-1/2 stories, not to exceed 35 feet (except lawful nondwelling agricultural buildings—no height limit)
LOT COVERAGE	20%
MINIMUM LOT AREA	1 acre
MINIMUM LOT WIDTH AND STREET FRONTAGE	150 feet
MAXIMUM LOT DEPTH TO WIDTH RATIO	4:1
MINIMUM DWELLING UNIT FLOOR AREA	One Story - 960 square feet
	Above one story - 600 square feet on ground floor

CHAPTER 6 R RESIDENTIAL DISTRICT

SECTION 6.01 DESCRIPTION AND PURPOSE

This District recognizes lands that retain a relatively high proportion of agriculture and open space use but, due to population growth, soil characteristics, and related factors, experience ongoing transition to nonfarm low density residential development. Due to its rural character, the R Residential District permits some of the uses provided for in the AR Agricultural District. Unlike the AR District, however, uses which are considered incompatible to the R District's emerging residential growth are not permitted.

SECTION 6.02 PERMITTED USES

Land and/or buildings in the R District may be used for the following purposes as Permitted Uses, subject to the approval of a site plan, in accordance with the requirements of Chapter 15.

- A. Single-family dwellings, including home occupations as regulated by Section 3.24.
- B. State licensed residential family care facilities; provided that such facility is not located closer than one-thousand five hundred (1,500) feet from an existing or proposed similar state licensed residential facility, including group care facilities, but not including state licensed residential facilities caring for six (6) or fewer minors.
- C. Family day care homes.
- D. Accessory buildings, structures and uses customarily incidental to a Permitted Use or Special Land Use meeting the requirements of Section 3.08.
- E. Short-Term Rentals (with limits as set forth elsewhere in this Ordinance).

SECTION 6.03 SPECIAL LAND USES

Land and/or buildings in the R District may be used for the following subject to approval by the Planning Commission as a Special Land Use in accordance with procedures of Chapter 16.

- A. Outdoor recreational uses, country clubs, golf courses, riding stables, hunt clubs, gun clubs, and publicly-owned athletic grounds and parks, and other similar uses, including related uses, such as snack bars, pro-shops, restaurants, small retail shops selling goods directly related to the primary use, and other similar uses integral to the main use.
- B. Schools, churches, libraries, parks, playgrounds and community center buildings.
- C. Group day care homes.
- D. Utility and public service buildings, including storage yards.

- E. Nursing homes.
- F. Bed and breakfast establishments.
- G. Open Space Preservation Developments.
- H. Two-family dwellings.
- I. Private clubs.
- J. Cemeteries.
- K. Home occupations.
- L. Kennels

SECTION 6.04 SCHEDULE OF R DISTRICT REGULATIONS

No building, structure, or principal use of land, nor the enlargement of any building, structure, or use of land, nor the creation of a lot or parcel, shall hereafter occur unless all of the following requirements are met and maintained in connection with such building, structure, use, or enlargement. (Refer to Chapter 16 for additional requirements for Special Land Uses.)

R DISTRICT REQUIREMENTS	
FRONT YARD	40 feet
SIDE YARD [each side]	15 feet
REAR YARD	25 feet
BUILDING HEIGHT	Maximum 2-1/2 stories, not to exceed 35 feet
LOT COVERAGE	20%
MINIMUM LOT AREA	1 acre
MINIMUM LOT WIDTH AND STREET FRONTAGE	150 feet
MAXIMUM LOT DEPTH TO WIDTH RATIO	4:1
	One story – 960 square feet

MINIMUM DWELLING UNIT FLOOR
AREA

Above one story – 600 square feet on
ground floor

6

6-2

R

CHAPTER 7 WR WATERFRONT RESIDENTIAL DISTRICT

SECTION 7.01 DESCRIPTION AND PURPOSE

This District is intended for low density single family residential development located on or near any water front. Preservation of water quality and the rural residential character is an important element for development within this District.

SECTION 7.02 PERMITTED USES

Land and/or buildings in the WR District may be used for the following purposes as Permitted Uses, subject to the approval of a site plan, in accordance with the requirements of Chapter 15.

- A. Single-family dwellings, including home occupations as regulated by Section 3.24.
- B. State licensed residential family care facilities; provided that such facility is not located closer than one-thousand five hundred (1,500) feet from an existing or proposed similar state licensed residential facility, including group care facilities, but not including state licensed residential facilities caring for six (6) or fewer minors.
- C. Family day care homes.
- D. Parks, play fields, and recreational facilities owned and operated by public agencies, service clubs and libraries.
- E. Accessory buildings, structures and uses customarily incidental to a Permitted Use or Special Land Use meeting the requirements of Section 3.08.
- F. Short-Term Rentals (with limits as set forth elsewhere in this Ordinance).

SECTION 7.03 SPECIAL LAND USES

Land and/or buildings in the WR District may be used for the following, subject to approval by the Planning Commission as a Special Land Use in accordance with the procedures of Chapter 16.

- A. Bed and breakfast establishments.
- B. Open Space Preservation Developments.
- C. Public Boat Launches
- D. Schools, churches, libraries and community center buildings.

SECTION 7.04 DISTRICT REGULATIONS

- A. No building, structure, or principal use of land, nor the enlargement of any building, structure, or use of land, nor the creation of a lot or parcel, shall hereafter occur unless all of the following requirements are met and maintained in connection with such building, structure, use, or enlargement. (Refer to Chapter 16 for additional requirements for Special Land Uses.)

WR DISTRICT REQUIREMENTS	
FRONT YARD	40 feet
SIDE YARDS	Minimum of 15 feet each
REAR YARD	25 feet
BUILDING HEIGHT	Maximum 2-1/2 stories, not to exceed 35 feet
MAXIMUM LOT COVERAGE	20 %
MINIMUM LOT AREA	1 acre
MINIMUM LOT WIDTH	150 feet
MAXIMUM LOT DEPTH TO WIDTH RATIO	4:1
MINIMUM DWELLING UNIT FLOOR AREA	One Story - 960 square feet

- B. The following provisions apply to all waterfront lots with at least one (1) lot line bordering a waterfront within this District.
1. Lots, parcels and uses must comply with the Riparian Access regulations of Section 3.29 of this Ordinance.
 2. Except as may otherwise be expressly permitted by this Ordinance, no dwelling or other main building or accessory building shall be constructed, maintained, erected, installed, or enlarged within fifty (50) feet of the ordinary high water mark or the break of a bank, whichever is further away from the body of water.
 3. Areas cleared for a construction project shall be returned to a vegetative state which is approximately the same quality and extent as that which existed prior to the clearing.
 4. No dwelling shall be constructed or placed on lands which are subject to flooding or on banks where a minimum of four (4) feet between the

finished grade level and the high water line cannot be met. Land may be filled to meet the minimum requirement of four (4) feet between the finished grade level and ordinary high water mark only under the following conditions:

- a. No material is allowed to enter the water either by erosion or mechanical means.
- b. Fill material is of a pervious material such as gravel or sand.
- c. Any and all permits have been acquired as required by the laws of the State of Michigan and the rules and regulations of the State of Michigan, provided that it shall be unlawful to alter the shoreline of any watercourse, lake or reservoir in the Township by soil or earth removal or fill.
- d. All filling or grading work shall be accomplished so as not to alter the natural drainage of adjoining land.

- C. Setbacks from Lake Michigan, White Lake, or Other Body of Water or Watercourse. The minimum setback requirements for buildings and structures on lots abutting Lake Michigan, White Lake, or any other body of water or watercourse shall be the lesser of the sight line setback or historical setback determined pursuant to subsections (1) or (2) below.

If a greater setback is required under the provisions of the Sand Dune Protection and Management or Shore Land Protection and Management Acts or other portion of this Ordinance than is required by this subsection, then such greater setback requirement shall apply.

1. Sight Line Setback:

- a. If there are principal buildings located on the lots which abut the lot in question on both sides, the sight line setback shall be a line from the closest point to the water of the principal building on the lot on one side of the lot in question to the closest point to the water of the principal building on the other side of the lot in question.
- b. If there is a principal building located on a lot which abuts the lot in question on one side, but there is no principal building on the abutting lot on the other side of the lot in question, but there is a principal building on a lot on that side which is within three hundred (300) feet of the lot in question, the sight line setback shall be a line from the closest point to the water for the principal building on the lot which is abutting to the closest point to the water of the principal building on

the closest lot on the other side that is within three hundred (300) feet.

- c. If there is a principal building located on a lot which abuts the lot in question on one side, but there are no lots within three hundred (300) feet on the other side of the lot in question that have principal buildings located thereon, the sight line setback shall be a line from the closest point to the water of the principal building on the lot which abuts the lot in question which runs parallel to the shoreline and extends across the lot in question.
 - d. If there is no principal building on the lots abutting the lot in question on either side, then the setback shall be not less than fifty

(50) feet from the ordinary high water mark or the break of the fore dune, whichever is located further from the body of water
2. Historical Setback Line. The setback established for the lot in question by the principal building located upon such lot at the time the application for a zoning permit for the new building is filed, or which was located thereon, prior to loss or removal on account of casualty or demolition, within the one-year period of time immediately preceding the filing of such application, provided that such principal building, if not in compliance with the setback requirements of subsection (1) above, or any predecessor version of this Section 7.04, is or was a lawful nonconforming building. In calculating the one year time period provided in the preceding sentence, if the previous principal building is demolished, the one-year period shall begin to run as of the date of the demolition permit; If the previous principal building is destroyed by casualty, the one-year time period shall begin to run as of the date of the casualty. The one-year time period specified above shall, as of the effective date of the amendment adding the one-year time period to this Ordinance, be applied retroactively so that the setback of a principal building destroyed or demolished before such effective date may be utilized to establish the setback of a new building provided the application for a zoning permit is made for the new building within one year after the loss by casualty or demolition of the old building.

CHAPTER 8 MHP MANUFACTURED HOME PARK DISTRICT

SECTION 8.01 INTENT

The Manufactured Home Park District is intended to provide opportunity for placement and occupancy of manufactured homes in clustered settings and parks where medium and high density residential uses are appropriate. This district recognizes the affordable cost for such homes and the special regulation of such facilities by the State of Michigan.

SECTION 8.02 PERMITTED USES

Land and/or buildings in the Manufactured Home Park District may be used for the following purposes as Permitted Uses, subject to the approval of a site plan, in accordance with the requirements of Chapter 15.

- A. Manufactured homes located in a state-licensed Manufactured Home Park.
- B. Family day care homes.
- C. State licensed residential family care facilities; provided that such facility is not located closer than one-thousand five hundred (1,500) feet from an existing or proposed similar state licensed residential facility, including group care facilities, but not including state licensed residential facilities caring for four (4) or less minors.
- D. Single family dwellings, including home occupations, as regulated by Section 3.24.
- E. Accessory buildings, structures and uses customarily incidental to a Permitted Use or Special Land Use meeting the requirements of Section 3.08 and this Chapter.

SECTION 8.03 SPECIAL LAND USES

Land and/or buildings in the Manufactured Home Park District may be used for the following subject to approval by the Planning Commission as a Special Land Use in accordance with the procedures of Chapter 16.

- A. Utility and public service buildings, without storage yards, but not including essential public services such as poles, wires, and underground utility systems.
- B. State licensed residential group home care facilities.

SECTION 8.04 LICENSED MANUFACTURED HOME PARKS

- A. All manufactured home parks shall comply with the applicable requirements of Public Act 96 of the Michigan Public Acts of 1987, as amended, provided further that these developments meet the standards and conditions and all other provisions as herein established.

- B. The parking of more than one (1) manufactured home on a single parcel of land or on two (2) or more adjoining parcels of land under common ownership shall be illegal in White River Township, irrespective of the requirements of any other ordinance of White River Township, unless the parcel or parcels of land has been approved as a licensed manufactured home park under the provisions of this Chapter and state law.
- C. No manufactured home shall be occupied within the park area until such time as a “Manufactured Home Occupancy Permit” shall be issued by the Zoning Administrator.
- D. The Manufactured Home Park Occupancy Permit shall be issued by the Zoning Administrator only after inspection of the premises, and after making a finding that the conditions as set forth below have been fulfilled and complied with by the developer. A permit may be issued if weather conditions or other temporary obstruction makes complete compliance impossible. In such case, the Zoning Administrator may require the submission of a performance bond covering the cost of the necessary improvements, provided that such improvements are completed within six (6) months from the date of the request for the Permit.
- E. All applications for manufactured home parks must be approved by the Township Board, upon the recommendation of the Planning Commission, in accordance with the provisions of this Section.
- F. The Planning Commission and Township Board shall consider the following standards when considering an application for a manufactured home park:
 - 1. Whether the proposal is in accordance with the Master Plan.
 - 2. Whether the proposal meets all the design standards of this Ordinance, other applicable local codes, regulations, and ordinances, and applicable state and federal requirements.
 - 3. Whether the density of the proposed development could adversely affect adjacent properties and land uses.
 - 4. Whether the arrangement of the proposed development can be reasonably expected to constitute a health hazard or public nuisance to adjacent properties because of inappropriate or inadequate sanitation and/or drainage facilities.
 - 5. Whether the proposed development produces excessive demands on available fire and police protection or other community services.

6. Whether the traffic characteristics of the proposed development may create a hazard or place an excessive burden on adjacent public roads or pedestrian facilities.

G. **Manufactured Home Park Requirements:** All manufactured home parks shall be designed and developed in accordance with the following requirements:

1. Minimum site size for a manufactured home park shall be ten (10) acres.
2. A minimum of fifty (50) manufactured home sites shall be provided in the manufactured home park.
3. Each manufactured home park site shall have direct access to a primary, all season, road as defined by the Muskegon County Road Commission.
4. No access to the site shall be located closer than two-hundred (200) feet from the centerline of the intersection of any arterial street.
5. Minimum street widths within the manufactured home park shall be in accordance with the following schedule.

Required Street Width for On-Street Parking		
Parking	Direction	Minimum Street Width
No on-street parking	one way	14 feet
	two way	20 feet
Parallel parking on one side of street	one way	20 feet
	two way	30 feet
Parallel parking on both sides of street	one way	26 feet
	two way	36 feet

6. All streets within the manufactured home park shall be of bituminous aggregate or similar surface, meeting the Private Road construction specifications of this Ordinance. Lighting shall be provided by proper posts or overhead lamps to provide adequate lighting for all streets within the manufactured home park and at entries to the park site.

7. Maximum height for any permanent building shall not exceed one (1) story or twenty-five (25) feet, whichever is greater.
8. Each manufactured home lot, exclusive of streets shall have a minimum size of six-thousand five hundred (6,500) square feet and a minimum width of fifty (50) feet. No more than one (1) manufactured home shall be parked on any one lot, and no manufactured home shall be occupied by more than one family.
9. The minimum setback between any part of any manufactured home and/or structure permanently or temporarily attached thereto (excluding hitch), or used in conjunction therewith, including, but not limited to, storage sheds, cabanas, and porches shall be twenty (20) feet from the inside of the sidewalk; and the minimum spacing from any rear lot line shall be twenty (20) feet, and from the side lot line on the entry side ten (10) feet, and from the side lot line on the nonentry side, five (5) feet.
10. The nearest building of the manufactured home park shall be set back a minimum of one-hundred (100) feet from the right-of-way of any adjacent public street. This setback shall be properly landscaped with grass and maintained by the owner and/or operator of the manufactured home park.
11. Each lot shall front on sidewalks at least five (5) feet in width, located directly next to and parallel to the street.
12. Each lot shall provide a minimum of two (2) off-street, paved parking spaces.
13. The front, rear, and side yards of every lot shall be landscaped with grass and properly maintained thereafter. At least one (1) shade tree shall be provided for every two (2) lots. Trees shall be located to provide shade for manufactured home park sites.
14. The manufactured home park shall provide a minimum of a fifty (50) foot buffer strip separating the manufactured home park from adjacent property. This strip shall be landscaped with trees or shrubbery planted in such a manner as to provide a screen at least five (5) feet in height. No part of this strip shall be used for any structure, right-of-way, drive, or parking space. The strip shall be maintained by the owner and/or operator of the manufactured home park.

H. Utility Standards - The following utility standards shall apply to all manufactured home parks:

1. All utilities shall be underground.

2. All lots shall be provided with an approved method of providing water and sanitary sewer service, and all manufactured homes shall be connected thereto. Said approval to be granted by the Muskegon County Health Department, Michigan Department of Environmental Quality, the White River Township Board, or any other required agency, as appropriate. All expense of installation and connection shall be borne by the owner or operator of the manufactured home park in accordance with procedures established by the Township Board.
3. The manufactured home park shall provide sufficient storm sewer facilities, independent of sanitary sewers, to prevent flooding of either streets or lots. On-site storm water detention or retention may be required where deemed necessary by the Township Engineer. All storm drainage and surface drainage facilities shall be approved by the Muskegon County Drain Commissioner.

I. Manufactured Home Standards

1. All manufactured homes within the manufactured home park shall be set up in accordance with the State of Michigan Manufactured Home Commission rules and regulations applicable to manufactured home pad design and set up.
2. All manufactured homes shall have a minimum width of fourteen (14) feet across any horizontal surface, exclusive of carports or overhangs.

J. Recreation and Shelter Facilities: The manufactured home park shall contain one (1) or more recreation and common playground areas intended primarily for the use of the residents of the manufactured home park residents. A minimum of two-hundred and fifty (250) square feet for every manufactured home park lot shall be provided. Buffer strip areas shall not be counted toward this requirement.

K. Inspection and Permits

1. The Building Inspector or such other person designated by the Township Board shall inspect the manufactured home park at least once each year. The fee for such inspection shall be determined by the Township Board.
2. In the event that the Building Inspector or such other designated person find that the condition of the manufactured home park is such that it does not comply with the safeguards and conditions as set out in this resolution, the Building Inspector or such other designated person shall serve written notice upon the owner or operator of such manufactured home park of such defects. The notice shall include a demand that such defects or deficiencies be corrected within thirty (30) days of receipt of the notice.

3. In the event that the owner or operator of the manufactured home park does not correct the deficiencies within the thirty (30) day period, either the owner or operator of the manufactured home park or the Building Inspector may request that the Township Board set a date for a public hearing on the defects or deficiencies. The hearing shall be held by the Township Board, provided that the notice is given to the owner and operator of the manufactured home park, and that such notice is posted in three (3) prominent places within the manufactured home park at least thirty (30) days prior to the hearing.
4. At the date of the hearing, the Township Board may amend or modify the terms of the original notice, or if the modifications thereof shall not be corrected within the thirty (30) days allowed for corrections to be made, or any extension thereof, the Township, in order to preserve the health and welfare of the residents of the Township and the value of the properties of the residents within the manufactured home park, and to prevent the manufactured home park from becoming a public nuisance, may enter upon the manufactured home park and correct the defects and/or deficiencies, or may revoke the approval for the manufactured home park and order it closed.

L. Manufactured Home Sales

1. No person desiring to rent a dwelling unit site shall be required, as a condition of such rental, to purchase a manufactured home from the owner or operator of the manufactured home park as long as the manufactured home intended to be located on such site conforms in size, style, shape, price, or other such requirements as may be required by any reasonable manufactured home park rules and regulations.
2. Nothing contained in this Ordinance shall be deemed as prohibiting the sale of a manufactured home located on a manufactured home lot by the individual owner or an agent of the owner, or those home occupants as permitted in this Ordinance, provided that a manufactured home sales lot shall not be permitted in conjunction with any manufactured home park.

- M.** All persons, including but not limited to Township officials or police officers, whose entry upon the manufactured home park property is necessary, proper or advisable in the execution of their governmental duties, or to the execution of work authorized by a governmental body, or for the preservation of the peace, shall have the right to enter upon and inspect the manufactured home park at all reasonable times.

- N. The riparian access requirements of Section 3.29 are fully applicable and each individual manufactured home will be considered a dwelling for purposes of those regulations.

CHAPTER 9 C NEIGHBORHOOD COMMERCIAL DISTRICT

SECTION 9.01 DESCRIPTION AND PURPOSE

This District is intended to accommodate low-intensity commercial uses which can provide office, personal services, and commercial goods for visitors to and residents of the neighborhoods of White River Township, including uses which are generally compatible with the character of nearby Residential Districts.

SECTION 9.02 PERMITTED USES

Land and/or buildings in the Neighborhood Commercial District may be used for the following purposes as Permitted Uses, subject to the approval of a site plan, in accordance with the requirements of Chapter 15.

- A. Office buildings for executive, administrative, professional, accounting, and other similar professional activities.
- B. Medical and dental offices and clinics.
- C. Banks, credit unions, savings and loan associations, and other similar uses, including those with drive-through facilities.
- D. Personal service establishments conducting services on the premises, including barber and dry-cleaning service outlets, beauty shops, fitness centers, travel agencies, and other similar uses.
- E. Retail stores, providing goods within a completely enclosed building.
- F. Drug stores and pharmacies without a drive-through facility.
- G. Restaurants without a drive-through facility.
- H. Private clubs, fraternal organizations, and lodge halls.
- I. Dry-cleaning and laundry establishments performing cleaning operations on the premises, including retail/service operations, but not including drive-through.
- J. Indoor recreational facilities.
- K. Commercial child care centers.
- L. Utility and public service buildings, without storage yards, but not including essential public services such as poles, wires, and underground utility systems.
- M. Churches.

- N. Accessory buildings, structures and uses customarily incidental to a Permitted Use or Special Land Use meeting the requirements of Section 3.08.
- O. Short-Term Rentals

SECTION 9.03 SPECIAL LAND USES

Land and/or buildings in the C District may be used for the following subject to approval by the Planning Commission as a Special Land Use in accordance with the procedures of Chapter 16.

- A. Funeral homes and mortuary establishments.
- B. Hotels, motels, and resorts.
- C. Theaters or similar places of public assembly.
- D. Restaurants with drive-through facilities.
- E. Pharmacies with drive-through facilities.
- F. Vehicle service stations, excluding body shops.
- G. Vehicle wash establishments, either self-serve or automatic.
- H. Open air businesses.
- I. Veterinary hospitals and animal clinics.
- J. Bowling alleys.
- K. Drug stores and pharmacies with drive-through.
- L. Dry-cleaning and laundry establishments performing cleaning operations on the premises, including retail/service operations with drive-through.
- M. Commercial storage warehouses.
- N. Marinas.

SECTION 9.04 SITE DEVELOPMENT REQUIREMENTS

- A. The outdoor storage of goods or materials shall be prohibited in the required front yard. Goods or materials stored in the side or rear yard shall be fully screened from the view from the street and from abutting properties.

- B. All commercial sites shall be developed in a fashion which promotes pedestrian safety, proper vehicular access, limited curb cuts to the public highway system, and due consideration to the rural residential character of White River Township.

SECTION 9.05 SCHEDULE OF DISTRICT REGULATIONS

No building, structure, or use of land, nor the enlargement of any building, structure, or use of land, nor the creation of a lot or parcel, shall hereafter occur unless all of the following requirements are met and maintained in connection with such building, structure, use, or enlargement. (Refer to Chapter 16 for additional requirements for Special Land Uses.)

C DISTRICT REGULATIONS		
FRONT YARD		40 feet
SIDE YARD	Side abutting Residential Districts or residential uses	35 feet, or 20 feet if a buffer, screen or wall of five (5) feet in height separates the uses.
	Side abutting other Districts	15 feet
REAR YARD		20 feet
MAXIMUM IMPERVIOUS LOT COVERAGE		50%
BUILDING HEIGHT		Maximum 2-1/2 stories, not to exceed 35feet
MINIMUM LOT AREA		1 acre
MINIMUM LOT WIDTH AND STREET FRONTAGE		150 feet
MINIMUM LOT DEPTH-TO-WIDTH RATIO		4:1

CHAPTER 10 I-1 LIGHT INDUSTRIAL DISTRICT

SECTION 10.01 DESCRIPTION AND PURPOSE

This District is intended to accommodate small scale wholesale, warehousing, light manufacturing, storage, and other industrial uses which may be supported by minimal public infrastructure.

SECTION 10.02 PERMITTED USES

Land and/or buildings in the I-1, Light Industrial District may be used for the following purposes as Permitted Uses, subject to the approval of a site plan, in accordance with the requirements of Chapter 15.

- A. Industrial establishments including the manufacture, compounding, processing, packaging, warehousing, or treatment of such products as foodstuffs (excepting slaughterhouses or other similar uses), cosmetics, pharmaceuticals, pottery or other ceramic products, musical instruments, toys, furniture, molded rubber products, electrical appliances, electronic instruments, signs, light sheet metal products, hardware, tool, die, gauge, and machine shops, excluding stamping operations. The manufacture, compounding, processing, packaging, or treatment of products requiring stamping or punch press operations.
- B. Wholesale and warehousing of automotive equipment, dry goods and apparel, groceries and related products, raw farm products excluding livestock, electrical goods, hardware, plumbing, heating and air conditioning equipment and supplies, machinery and equipment, tobacco and tobacco products, paper and paper products, furniture and home furnishings, and any commodity, the manufacture of which is permitted in this District.
- C. Truck terminals and truck service facilities, provided they are located at least two hundred fifty (250) feet from any Residential District or use lot line. D. Manufactured home and model home sales.
- E. Laboratories (experimental, film, or testing).
- F. Trade or industrial schools.
- G. Utility and public service buildings, including storage yards.
- H. Contractor's showrooms and storage yards, lumber yards, and similar uses.

- I. Accessory buildings, structures and uses customarily incidental to a Permitted Use or Special Land Use meeting the requirements of Section 3.08.

SECTION 10.03 SPECIAL LAND USES

Land and/or buildings in the LI District may be used for the following subject to approval by the Planning Commission as a Special Land Use in accordance with the procedures of Chapter 16.

- A. Body shops.
- B. Lumber and planing mills.
- C. Metal plating, buffing, and polishing.
- D. Junk yards, salvage yards.
- E. Dry-cleaning and laundry establishments performing cleaning operations on the premises, excluding retail/service operations.
- F. Adult uses.
- G. Research and development facilities or laboratories, including production activities.
- H. Billboards.

SECTION 10.04 SITE DEVELOPMENT REQUIREMENTS

- A. The outdoor storage of goods or materials shall be fully screened from the view from the street and from abutting properties.
- B. All industrial activities shall be conducted wholly within a completely enclosed building, except for loading and unloading operations, on-site parking of vehicles, and the outside storage of materials used in conjunction with the industrial operation.
- C. Industrial uses abutting a residential use or district shall provide a landscape buffer (greenbelt) along the abutting side of no less than twenty five (25) feet or greater as required by this Ordinance.

SECTION 10.05 SCHEDULE OF LIGHT INDUSTRIAL DISTRICT REQUIREMENTS

No building, structure, or principal use of land, nor the enlargement of any building, structure, or use of land, nor the creation of a lot or parcel, shall hereafter occur unless

all of the following requirements are met and maintained in connection with such building, structure, use, or enlargement. (Refer to Chapter 16 for additional requirements for Special Land Uses.)

LI DISTRICT REQUIREMENTS		
FRONT YARD		75 feet
		The first 25 feet of the front yard area, except for necessary entrance drives, shall be landscaped.
SIDE YARD	Side abutting Residential Districts or uses	50 feet [25 feet of which shall be landscaped.]
	Side abutting other Districts	25 feet
REAR YARD	Abutting Residential Districts or uses	100 feet [25 feet adjacent to residential shall be landscaped.]
	Abutting other Districts	30 feet
MAXIMUM IMPERVIOUS LOT COVERAGE		30%
MAXIMUM BUILDING HEIGHT		40 feet
MINIMUM LOT AREA		10 Acres
MINIMUM LOT WIDTH AND STREET FRONTAGE		200 feet
MINIMUM LOT DEPTH-TO-WIDTH RATIO		4:1

CHAPTER 11 – I-2 CHEMICAL MANUFACTURING AND INDUSTRIAL DISTRICT

SECTION 11.01 DESCRIPTION AND PURPOSE

This District is intended to accommodate wholesale, warehousing, manufacturing, storage, and other industrial uses which may be supported by minimal public infrastructure, including those uses which foster the chemical industry.

SECTION 11.02 PERMITTED USES

Land and/or buildings in the I-2, Chemical Industrial District may be used for the following purposes as Permitted Uses, subject to the approval of a site plan, in accordance with the requirements of Chapter 15.

- A. Industrial establishments including the manufacture, compounding, processing, packaging, warehousing, or treatment of such products as foodstuffs (excepting slaughterhouses or other similar uses), cosmetics, pharmaceuticals, pottery or other ceramic products, musical instruments, toys, furniture, molded rubber products, electrical appliances, electronic instruments, signs, light sheet metal products, hardware, tool, die, gauge, and machine shops, excluding stamping operations. The manufacture, compounding, processing, packaging, or treatment of products requiring stamping or punch press operations.
- B. Wholesale and warehousing of automotive equipment, dry goods and apparel, groceries and related products, raw farm products excluding livestock, electrical goods, hardware, plumbing, heating and air conditioning equipment and supplies, machinery and equipment, tobacco and tobacco products, paper and paper products, furniture and home furnishings, and any commodity, the manufacture of which is permitted in this District.
- C. Truck terminals and truck service facilities, provided they are located at least two hundred fifty (250) feet from any Residential District or use lot line. D. Manufactured home and model home sales.
- E. Laboratories (experimental, film, or testing).
- F. Trade or industrial schools.
- G. Utility and public service buildings, including storage yards.
- H. Contractor's showrooms and storage yards, lumber yards, and similar uses.

- I. The manufacture and/or generation of chemical and chemical products including, without limiting, materials in solid, liquid, and gaseous states; the treatment of all such principal products, byproducts, and waste in raw, intermediate, and/or finished form (provided, however, that new product-line production facilities shall require special land use approval).
- J. Accessory buildings, structures and uses customarily incidental to a Permitted Use or Special Land Use meeting the requirements of Section 3.08.

SECTION 11.03 SPECIAL LAND USES

Land and/or buildings in the I-2 District may be used for the following subject to approval by the Planning Commission as a Special Land Use in accordance with the procedures of Chapter 16. A. Body shops.

- B. Lumber and planing mills.
- C. Metal plating, buffing, and polishing.
- D. Junk yards, salvage yards.
- E. Dry-cleaning and laundry establishments performing cleaning operations on the premises, excluding retail/service operations.
- F. Adult uses.
- G. Research and development facilities, including production activities.
- H. Gas and petroleum exploration, manufacture, and storage.
- I. Explosives manufacture or storage.
- J. Fertilizer manufacture and storage.

SECTION 11.04 SITE DEVELOPMENT REQUIREMENTS

- A. The outdoor storage of goods or materials shall be fully screened from the view from the street and from abutting properties.
- B. All industrial activities shall be conducted wholly within a completely enclosed building, except for loading and unloading operations, on-site parking of vehicles, and the outside storage of materials used in conjunction with the industrial operation.
- C. Industrial uses abutting a residential use or district shall provide a landscape buffer (greenbelt) along the abutting side of no less than twenty five (25) feet or greater as required by this Ordinance.

SECTION 11.05 SCHEDULE OF CHEMICAL MANUFACTURING AND INDUSTRIAL REQUIREMENTS

No building, structure, or principal use of land, nor the enlargement of any building, structure, or use of land, nor the creation of a lot or parcel, shall hereafter occur unless all of the following requirements are met and maintained in connection with such building, structure, use, or enlargement. (Refer to Chapter 16 for additional requirements for Special Land Uses.)

L2 DISTRICT REQUIREMENTS		
FRONT YARD		75 feet
		The first 25 feet of the front yard area, except for necessary entrance drives, shall be landscaped.
SIDE YARD	Side abutting Residential Districts or uses	50 feet [25 feet of which shall be landscaped.]
	Side abutting other Districts	25 feet
REAR YARD	Abutting Residential Districts or uses	100 feet [25 feet adjacent to residential shall be landscaped.]
	Abutting other Districts	50 feet
MAXIMUM IMPERVIOUS LOT COVERAGE		10%
MAXIMUM BUILDING HEIGHT		40 feet
MINIMUM LOT AREA		20 Acres
MINIMUM LOT WIDTH AND STREET FRONTAGE		600 feet
MINIMUM LOT DEPTH-TO-WIDTH RATIO		4:1

CHAPTER 12 PUD PLANNED UNIT DEVELOPMENT DISTRICT

SECTION 12.01 DESCRIPTION AND PURPOSE

- A. A Planned Unit Development (PUD) may be established as a zoning district for the use of land and the construction and use of buildings and other structures in White River Township when approved by the Township Board using the procedures of this Chapter.
- B. It is the purpose of this District to provide for flexibility in the regulation of land development; to encourage innovation in land use and variety in design, layout, and type of structures; to achieve economy and efficiency in the use of land, natural resources, energy, and the provision of public services and utilities; to encourage useful open space; to provide for enhanced site and building architectural features; and to create better living, working, and shopping environments.
- C. This Chapter permits a degree of flexibility to the usual requirements found in other Districts in order to accomplish these objectives.

SECTION 12.02 QUALIFYING REQUIREMENTS AND CONDITIONS

- A. An application for a Planned Unit Development (PUD) will not be accepted unless the following qualifying requirements and conditions of this Section are met.
- B. Unless waived by the Planning Commission, at least one (1) portion of the PUD site shall have at least five (5) contiguous acres, not separated by a public road, railroad, or other similar feature or barrier.
- C. If the PUD is to contain a mixture of residential and nonresidential uses, the minimum required area shall be fifteen (15) acres.
- D. Noncontiguous Land:
 - 1. The Planning Commission may consider the purposes of a PUD found in Section 12.01 when considering whether to allow property separated by a public road, railroad, or other similar feature or barrier to be included in the PUD.
 - 2. The Planning Commission may also consider using noncontiguous property located in other parts of the Township, provided the noncontiguous portion adds to an existing preserved open space, adds to a public park, or is dedicated to the public for a park or other open space.
 - 3. The applicant must demonstrate how the separated lands of the PUD would not interfere with the ability to develop a cohesive PUD.

- E. The Planning Commission may allow an application for a PUD on lesser acreage if it is clear that the proposed PUD substantially provides for the purpose of a PUD as stated in this Chapter.
- F. Utilities: All PUDs shall be served by approved sewer and water facilities and stormwater controls. Prior to having a building permit issued, approvals must be obtained from with the Muskegon County Drain Commissioner, Health Department, Michigan Department of Environmental Quality or other agency as appropriate, including any additional stormwater ordinance applicable to the Township.
- G. Land Ownership: The PUD application must be filed by the landowner, jointly by all of the landowners, or by an agent. If the application is filed by an agent(s) or other interested party, written approval from the landowner(s) must also be filed.
- H. Land Use Plan: The proposed uses of the PUD must be substantially consistent with White River Township's Land Use Plan for the property.

SECTION 12.03 PERMITTED USES

The following uses of land and buildings and structures may be allowed within a PUD where approved by the Township Board: A. Single-family detached dwellings.

- B. Two-family dwellings, provided that such units make up no more than twenty percent (20%) of the total number of residential dwelling units in the total PUD.
- C. Multiple family dwellings, provided that such units make up no more than twenty percent (20%) of the total number of residential dwelling units in the total PUD.
- D. Golf courses, indoor tennis clubs, athletic clubs, gun clubs, recreational facilities, and marinas, including ancillary commercial activities such as pro shops, restaurants (excluding those with drive through facilities), and similar uses open only to members and their guests.
- E. Any "Permitted Use" within the C District, provided that:
 - 1. The total site of the PUD is at least twenty (20) contiguous acres;
 - 2. The gross area designated for commercial use including parking, accessways, and yards or open space shall not exceed five percent (5%) of the gross site area of the PUD;
 - 3. All such uses are integrated into the design of the project with similar architectural and site development elements, such as signs, landscaping, etc.; and

4. All provisions of Section 12.04 and Section 12.05 are met.
5. Such uses shall not materially alter the residential character of the neighborhood and/or the PUD;
6. All merchandise for display, sale or lease shall be entirely within an enclosed building(s); and
7. Buildings designed for nonresidential uses are constructed according to the following schedule:
 - a. If the entire PUD contains fewer than twenty (20) dwelling units, seventy-five percent (75%) of these units must be constructed prior to construction of any nonresidential use.
 - b. If the PUD contains more than twenty (20) dwelling units, fifty percent (50%) of these units shall be constructed prior to the construction of any nonresidential use.
 - c. No commercial uses shall be established without the construction and occupancy of at least twenty (20) residential dwelling units.
 - d. Accessory buildings, structures, and uses for Permitted Uses, as regulated by Section 3.08.

SECTION 12.04 DEVELOPMENT REQUIREMENTS

- A. Residential Density: The maximum permitted density for any residential development within a PUD shall not exceed the average gross density established in the Township Master Plan for that area. The total permitted density shall be determined through the submission of a plan indicating the general design based on the requirements of the R District.
- B. The minimum lot area requirements for any lot designated for residential use may be reduced by ten percent (10%) of the R District requirement, provided, however, the Township Board may permit additional relaxation, not to exceed a total of twenty five percent (25%) based on demonstration that the project has been designed to protect and maintain the natural character of the site, and will not be harmful to surrounding land uses.
- C. Pedestrian Access: The PUD must provide for integrated safe and pedestrian access and movement within the PUD and to adjacent properties.
- D. Architecture: The PUD should provide for coordinated and innovative, visually appealing architectural styles, building forms and building relationships.

- E. Traffic: The PUD must provide for safe and efficient vehicular movements within, into and off of the PUD site. In addition, the PUD should integrate traffic calming techniques, along with suitable landscape medians, parking lot landscape islands and other similar techniques to improve aesthetics, storm water management, traffic flow and vehicular/pedestrian safety.
- F. Open Space Requirements:
1. Usable open space shall occupy at least forty percent (40%) of the total PUD site.
 2. Usable open space shall not include required yards, parking areas, drives, rights-of-way, utility or road easements, storm water detention ponds, wetlands, lakes, rivers, or structures (unless the structures are part of the open space, *i.e.*, gazebos, artwork, swimming pool, riding stable, etc.).
 3. Open space shall be permanently set aside for the sole benefit, use, and enjoyment of present and future occupants of the PUD through covenant, deed restriction, open space easement, or similar legal instrument acceptable to the Township Attorney; or, if agreed to by a governmental agency, the open space may be conveyed to a governmental agency for the use of the general public.
 4. Common open space shall be planned in locations visible and accessible to all in the development. The common open space may either be centrally located, located to preserve natural features, or located to connect open spaces throughout the development, provided the following areas shall be included within the open space area:
 5. Open space shall be situated to maximize the preservation of any existing site woodlands.
 6. A minimum one hundred (100) foot wide undisturbed open space setback shall be maintained from the edge of any stream, river, lake, or wetland; provided that the Township may permit trails, boardwalks, observation platforms, or other similar structures that enhance passive enjoyment of the site's natural amenities within the setback.
 7. Where adjacent land includes open space, public land or existing or planned bike paths, open space connections shall be provided between the site and adjacent open space. Trails between adjoining open space development shall be constructed to allow future interconnection between neighborhoods.
- G. Open Space Protection:

1. The dedicated open space shall be set aside in perpetuity by the landowner through a conservation easement that is acceptable to the Township.
2. The conservation easement shall assure that the open space will be protected from all forms of development, except as shown on an approved site plan, and shall never be changed to another use. The conservation easement shall provide the following:
 - a. Allowable use(s) of the dedicated open space shall be indicated.
 - b. Require that the dedicated open space shall be maintained by parties who have an ownership interest in the open space. Requirements for scheduled maintenance of the open space shall be provided. The conservation easement shall provide for maintenance to be undertaken by the Township in the event that the open space is not adequately maintained, or is determined by the Township to be a public nuisance, with the assessment of costs upon the owners of the open space.
 - c. The dedicated open space shall forever remain open space, subject only to uses on the approved site plan. Further subdivision of open space land or its use for other than recreation or conservation purposes, except for easements for utilities, shall be strictly prohibited. Any change in use of the open space from what is shown on the approved site plan shall require Township approval, and shall not diminish compliance with the requirements of this Chapter.
 - d. Nothing herein shall prevent the conveyance of open space to a public agency or other nonprofit entity for recreational or conservation use.

SECTION 12.05 PRE-APPLICATION CONFERENCE

- A. A pre-application conference may be held with representatives from White River Township for the purpose of exchanging information, providing guidance to the applicant and determining the eligibility of the request for consideration as a PUD.
- B. A request for a pre-application conference shall be made to the Zoning Administrator. As part of the pre-application conference, the applicant shall submit a suitable number of copies, as determined by the Township, of a conceptual plan, at least seven (7) days in advance of the pre-application conference, which shows the property location, boundaries, land uses for the

entire site and other information necessary as determined by the applicant as necessary for a thorough project understanding.

- C. The Township shall advise the applicant of the conformance of the PUD concept with the Purpose and Objectives of a PUD in the Township, whether it appears to qualify under the minimum requirements of Section 12.02. No formal action will be taken at a pre-application conference, nor will statements made at the preapplication conference be considered legally binding commitments.

SECTION 12.06 REZONING REVIEW AND APPROVAL

- A. Following the pre-application conference, applicants seeking approval of a PUD District shall submit a complete application for review to the Township. When the Township determines the application to be complete, the PUD application will be sent to the Planning Commission for a workshop session.
- B. The application shall include the following, unless determined by the Zoning Administrator to be unnecessary:
1. A completed application form and twelve (12) copies of a preliminary development plan shall be provided to the Township. The preliminary plan shall contain the information required for preliminary plans in Chapter 13.
 2. Payment of a fee established by the Township Board.
 3. A narrative statement describing:
 - a. The objectives of the PUD and how it relates to the Purpose of the PUD District, as described in Section 12.01.
 - b. The relationship of the PUD to the qualifying conditions listed in Section 12.02.
 - c. Proposed phases of development and approximate time frames for each phase, including anticipated start and completion dates of construction.
 - d. Proposed deed restrictions, covenants, or similar legal instruments to be used within the PUD.
 - e. Planning Commission Recommendation
 - (1) Following notice as required by the Zoning Act, the Planning Commission shall hold a public hearing on the proposed PUD rezoning, for the purpose of receiving public comment on the PUD.
 - (2) Following the public hearing, the Planning Commission shall review the PUD request and preliminary development plan

based on the conformance with the standards of this Chapter; and shall make a recommendation to the Township Board to approve, approve with conditions, or deny the PUD rezoning request and Preliminary Development Phase.

- (3) The Planning Commission shall include in its minutes the reasons for the recommendation to the Township Board.

f. Township Board Review and Approval

- (1) After receiving the recommendation of the Planning Commission, the Township Board shall hold a public hearing on the proposed Preliminary Development Plan and PUD rezoning, as required by the Zoning Act.
- (2) Following the hearing, the Township Board shall review the application, including the preliminary development plan, the record of the Planning Commission proceedings and their recommendation.
- (3) The Township Board shall make its findings based on the Standards for Approval of this Chapter as to approval, approval with conditions, or denial.
- (4) Approval of the preliminary development plan shall constitute approval of the rezoning to the PUD District. If the application is approved with conditions, the rezoning shall not be considered final until the applicant submits a written acceptance of the conditions and all necessary revisions to the preliminary development plan to the Zoning Administrator.

SECTION 12.07 FINAL DEVELOPMENT PLAN REVIEW AND APPROVAL

A. Application Deadlines

1. The applicant shall submit a request to the Township for final PUD approval within twelve (12) months of the Township Board's approval of the PUD preliminary plan and rezoning. If the applicant fails to submit a request within this period, the preliminary site plan (not the PUD rezoning) shall be invalid.
2. Phased Approval

- a. If the project includes phases, the applicant must submit a request for final development plan approval of a phase within twelve (12) months of the Township Board's approval of the preliminary plan and rezoning.
 - b. Following the final approval of the first PUD phase, the applicant must submit each subsequent phase within twenty-four (24) months of the approval date of the previous phase.
 - c. If the applicant fails to submit the first phase within twelve (12) months or any subsequent phase within the twenty-four (24) month time period, then the preliminary site plan incorporating all phases for which a final site plan has not been approved shall be invalid.
3. Planned Unit Developments, whether established as a single or multiphase development, shall reasonably accommodate for the purpose of the PUD in each phase. The Planning Commission may require bonding or other similar financial obligation, which shall be established in the PUD agreement to ensure that this objective is met. If a portion of the PUD purpose is to provide for a variety of uses (*i.e.*, multiple family and single family homes), then the proposed phasing schedule shall show how the development of these uses will be balanced in the phased development schedule.
- a. Approval Time Extension: Upon written request to the Planning Commission made prior to the expiration of the approval the PUD may be extended for an additional six (6) months.
 - b. Final Development Plan Application: A final development plan application shall consist of the following, unless determined by the Zoning Administrator to be unnecessary:
 - (1) A completed application form, supplied by the Township.
 - (2) Payment of a fee established by the Township Board.
 - (3) A written response to the findings, review comments, and conditions, if any, from the Township Board's review and approval of the preliminary development plan and a narrative explanation of the changes made to the plan in response to those items.
 - c. A final site plan meeting the requirements of Chapter 15 for the PUD or phase that is being submitted.

- d. The Planning Commission may request from the applicant any additional graphics or written materials, prepared by a qualified person or persons, to assist in determining the appropriateness of the site plan. This material may include, but need not be limited to, aerial photography, photographs; traffic impacts; impact on significant natural features and drainage; soil tests; and other pertinent information.
- e. A table which specifically details all deviations from the established lot and yard requirements, height, off-street parking regulations, general provisions, or subdivision regulations which would otherwise be applicable to the uses and developments proposed without the PUD.

B. Planning Commission Review and Approval

- 1. The Planning Commission shall review the final development plan to ensure that it generally conforms to the approved preliminary development plan and any conditions of the PUD rezoning.
- 2. If it is determined that the final plan is not in substantial conformance with the preliminary development plan, the review process shall be conducted as a preliminary development plan review, in accordance with the procedures of this Ordinance.
- 3. If the final development plan is consistent with the approved preliminary development plan, the Planning Commission shall review the final plan in accordance with the Standards for Approval stated in Section 12.08.
- 4. The Planning Commission shall prepare a record of its findings and shall approve, approve with conditions, or deny the final development plan.
- 5. Each development shall be under substantial construction within twelve (12) months after the date of approval of the PUD final development plan, except:
 - a. The Planning Commission may grant one (1) extension of up to an additional twelve (12) month period if the applicant applies in writing for the extension prior to the date of the expiration of the PUD or PUD phase.

- b. An extension may be granted if the applicant presents reasonable evidence that the development has encountered unforeseen difficulties beyond the control of the applicant.
 - c. If extended, any PUD requirements and standards that have changed since the original approval shall be met.
- 6. Should the time deadlines specified above not be fulfilled, or if an extension has expired without construction underway, the PUD preliminary plan approval(s) shall be null and void. This does not include any phases that may have received final PUD approval.
 - 7. Should the PUD District become null and void, the Township Board has the right to rezone the property back to the prior zoning classification(s) or to rezone it to any other zoning classification(s).
 - 8. If the property is not rezoned, then the subject property remains zoned as a PUD, but the preliminary or final PUD plans previously approved become null and void. In order to utilize the property as a PUD, an applicant must resubmit an application for a final PUD site plan approval as required by this Chapter, but would not require PUD rezoning, unless the proposed PUD project includes different land uses than previously approved (*i.e.*, commercial versus residential).

SECTION 12.08 STANDARDS FOR APPROVAL

A. A PUD preliminary development plan, rezoning, and final site development plan shall be approved only if they comply with all of the following standards:

- 1. The proposed PUD complies with all Qualifying Conditions of Section 12.02.
- 2. The proposed PUD is compatible with surrounding uses of land, the natural environment, and the capacities of public services and facilities affected by the development.
- 3. The proposed uses within the PUD will not possess conditions or effects that would be injurious to the public health, safety, or welfare of the community.
- 4. The proposed project is consistent with the spirit and purpose of the PUD District, as described in Section 12.01 and represents an opportunity for improved or innovative development for the community that could be difficult to achieve through conventional zoning.

5. The proposed PUD meets all the site plan review standards of Section 15.06.
6. The proposed PUD is consistent with the Master Plan for White River Township.
7. The proposed PUD is consistent with the intent and purposes behind this Ordinance.
8. The proposed PUD will not adversely impact the environment, groundwater, water runoff, or other aspects of the environment.

SECTION 12.09 PUD AGREEMENT

- A. Prior to the issuance of any building permits or commencement of construction on any portion of the PUD, the applicant shall enter into an agreement with the Township in recordable form, setting forth the applicant's obligations with respect to the PUD.
- B. The agreement shall describe all improvements to be constructed as part of the PUD and shall incorporate, by reference, the final development plan with all required revisions, other documents which comprise the PUD, and all conditions attached to the approval by the Township Board.
- C. A phasing plan shall also be submitted describing the intended schedule for start and completion of each phase and the improvements to be undertaken in each phase.
- D. The agreement shall also establish the remedies of the Township in the event of default by the applicant in carrying out the PUD, and shall be binding on all successors in interest to the applicant.
- E. All documents shall be executed and recorded in the office of the Muskegon County Register of Deeds.

SECTION 12.10 CHANGES TO AN APPROVED PUD

- A. The holder of an approved PUD final development plan shall notify the Zoning Administrator of any desired change to the approved PUD.
- B. Minor Change Determination: Minor changes may be approved by the Zoning Administrator upon determining that the proposed revision(s) will not alter the basic design and character of the PUD, nor any specified conditions imposed as part of the original approval. The Zoning Administrator may forward the proposed change to the Planning Commission even if it is a minor change if he/she believes that the effects of the change may alter the character or intent of the approved PUD.

C. Minor changes shall include the following:

1. Reduction of the size of any building and/or sign, unless it clearly affects the Purpose of the PUD.
2. Movement of buildings and/or signs by no more than ten (10) feet.
3. Landscaping approved in the final development plan that is replaced by similar landscaping to an equal or greater extent.
4. Changes in floor plans, of up to five (5) percent of the total floor area, which do not alter the character of the use or increase the amount of required parking.
5. Internal rearrangement of a parking lot that does not affect the number of parking spaces or alter access locations or design.
6. Changes required or requested by White River Township, Muskegon County, and other state or federal regulatory agencies in order to conform to other laws or regulations.

D. Major Change Determination: A proposed change not determined by the Zoning Administrator to be minor shall be submitted as an amendment to the PUD and shall be processed in the same manner as the original PUD application for the final development plan.

CHAPTER 13 CDO CRITICAL DUE OVERLAY DISTRICT

SECTION 13.01 PURPOSE

The provisions of this Chapter are intended to protect and promote the preservation of the lake shore and sand dune areas adjacent to Lake Michigan in a manner consistent with the intent and purpose of this Ordinance, as well as the purpose of the White River Township Master Plan, and the primary objectives of the Lake Shore and Sand Dune future land use areas described in that plan.

SECTION 13.02 EFFECT

The provisions of this Chapter do not abrogate Michigan Department of Natural Resources ("MDNR") authority over the review of applications and issuance of permits for construction activities in Critical Dune and High Risk Erosion Areas under the provisions of the Sand Dune Protection and Management Act (P.A. 222 of 1976, as amended), and the Shore Lands Protection and Management Act (P.A. 245, of 1970, as amended).

This District coincides with MDNR designated Critical Dune Areas as illustrated in the MDNR Atlas of Critical Dunes (or equivalent or successor map), as designated on the White River Township Master Plan Future Land Use Map. This District is an "overlay" zoning district that extends across portions of other zoning districts that are in MDNR designated Critical Dune Areas.

This is an overlay district and does not displace the underlying zoning district(s). This District's regulations are in addition to those of the underlying zoning district. The regulations applicable to land uses, setbacks, building height, and access established by this Chapter shall prevail over underlying zoning district regulations. If the regulations and requirements of this District conflict with those of the underlying zoning district, the stricter requirement or standard shall govern. In cases where a portion of a platted or unplatted lot or parcel of land falls within the boundaries of the CDO District, then only that portion of the lot shall be subject to the provisions of this Chapter.

SECTION 13.03 PERMITTED USES

The following uses are specifically permitted in this zoning district, subject to the requirements of Section 13.04. Uses not specifically permitted by this section are prohibited.

- A. Single Family Dwellings.
- B. Planned Unit Residential Developments permitted under the provisions of Chapter 12.
- C. Public parks, public open space areas, public sand dune preserves.

- D. Private or quasi-private conservation easements, sand dune preserves, and open space areas.

SECTION 13.04 SETBACK, AREA AND WIDTH REQUIREMENTS

- A. Setbacks from Lake Michigan, White Lake, or Other Body of Water or Watercourse. The minimum setback requirements for buildings and structures on lots abutting Lake Michigan, White Lake, or any other body of water or watercourse shall be established as the lesser of the sight line setback or historical setback determined pursuant to subsections (1) or (2) below.

If a greater setback is required under the provisions of the Sand Dune Protection and Management or Shore Land Protection and Management Acts or other portion of this Ordinance than is required by this section, then such greater setback requirement shall apply.

- 1. Sight Line Setback:

- a. If there are principal buildings located on the lots which abut the lot in question on both sides, the sight line setback shall be a line from the closest point to the water of the principal building on the lot on one side of the lot in question to the closest point to the water of the principal building on the other side of the lot in question.
- b. If there is a principal building located on a lot which abuts the lot in question on one side, but there is no principal building on the abutting lot on the other side of the lot in question, but there is a principal building on a lot on that side which is within three hundred (300) feet of the lot in question, the sight line setback shall be a line from the closest point to the water for the principal building on the lot which is abutting to the closest point to the water of the principal building on the closest lot on the other side that is within three hundred (300) feet.
- c. If there is a principal building located on a lot which abuts the lot in question on one side, but there are no lots within three hundred (300) feet on the other side of the lot in question that have principal buildings located thereon, the sight line setback shall be a line from the closest point to the water of the principal building on the lot which abuts the lot in question which runs parallel to the shoreline and extends across the lot in question.
- d. If there is no principal building on the lots abutting the lot in question on either side, then the setback shall be not less than fifty (50) feet

from the ordinary high water mark or the break of the fore dune, whichever is located further from the body of water

2. Historical Setback Line. The setback established for the lot in question by the principal building located upon such lot at the time the application for a zoning permit for the new building is filed, or which was located thereon, prior to loss or removal on account of casualty or demolition, within the one-year period of time immediately preceding the filing of such application, provided that such principal building, if not in compliance with the setback requirements of subsection (1) above, or any predecessor version of this Section 13.04, is or was a lawful nonconforming building. In calculating the one year time period provided in the preceding sentence, if the previous principal building is demolished, the oneyear period shall begin to run as of the date of the demolition permit; If the previous principal building is destroyed by casualty, the one-year time period shall begin to run as of the date of the casualty. The oneyear time period specified above shall, as of the effective date of the amendment adding the one-year time period to this Ordinance, be applied retroactively so that the setback of a principal building destroyed or demolished before such effective date may be utilized to establish the setback of a new building provided the application for a zoning permit is made for the new building within one year after the loss by casualty or demolition of the old building.

B. Setback Requirements for Buildings and Structures on Lots that do not Abut Lake Michigan, White Lake, or Other Body of Water or watercourse. If a greater setback is required under the provisions of the Sand Dune Protection and Management or Shore land Protection and Management Acts or by a requirement specified elsewhere in this Ordinance than is required by this section, then such greater setback requirement shall apply. Otherwise, the setbacks shall be as follows:

1. Setback from front lot line established by a county primary public road right-of-way – forty (40) feet.
2. Setback from a private road right-of-way or edge of access easement – thirty (30) feet.
3. Setback from side lot line – fifteen (15) feet, each side.
4. Setback from rear lot line – twenty-five (25) feet.

C. Lot Area and Width. All lots shall have a minimum area of 1 acre, and a minimum lot width of one hundred fifty (150) feet. Lot width shall be maintained for the entire length of the lot.

- D. Building Height. Dwellings shall not exceed two and one-half stories, nor more than thirty-five (35) feet in height measured at the point where the most landward portion of the dwelling will be located.
- E. Accessory building. Accessory buildings shall comply with the setback requirements provided above, shall not exceed 864 square feet in area, and shall not exceed one story in height, nor exceed sixteen (16) feet in height overall. Sidewalls shall not exceed twelve (12) feet in Height.

SECTION 13.05 ACCESS STANDARDS

The following requirements shall apply to all development in the CDO District:

- A. Driveways and access easements shall be located in areas where vegetation has stabilized the dunes and shall be constructed in a manner that minimizes disruption of the dune.
- B. On lots abutting Lake Michigan or White Lake, or any other body of water or watercourse, driveways and access easements shall be located landward of the principal building.
- C. On lots that do not abut Lake Michigan, White Lake, or other body of water or watercourse, driveways and access easements shall be located in a manner consistent with the provisions of this Section.
- D. Driveways and shared access easements shall be designed, constructed and maintained to assure the safe passage and maneuverability of private passenger and emergency services vehicles in all seasons of the year.
- E. Driveways and access easements shall be laid out to follow natural gaps within the dune system, or may be run through dry troughs between dunes. The natural topography of dune crests shall not be altered unless no other means of access is feasible.
- F. Wherever feasible, shared access drives and utility easements shall be provided.
- G. The riparian access requirements of Section 3.29 are fully applicable.

SECTION 13.06 GENERAL REQUIREMENTS

- A. Site Plan Approval Required.
 - 1. Site Plan Approval by the Planning Commission, as provided in Chapter 15, shall be obtained for all uses and buildings permitted in this District. The Planning Commission shall hold a public hearing for

site plan review as provided in Sections 21.12 and 16.02(B) of this Ordinance.

2. Applications for Site Plan Approval under the provisions of this subsection A shall be accompanied by three (3) complete sets of building plans for the principal building proposed for construction on the lot or parcel involved.
 3. Prior to granting or denying approval of a site plan, the Planning Commission shall, in addition to the standards for Site Plan Approval outlined in Chapter 15, consider the general standards outlined under Section 13.04 and Section 13.05, above.
- B. Conversion of single-family dwellings to two- or multiple-family dwellings is prohibited. Existing single family dwellings may not be expanded, added to, altered or modified to accommodate more than one family by the construction of guest quarters, accessory apartments, or segregated sleeping or living areas that may be isolated from the main living area, whether or not accessible by a doorway constructed for the exclusive use of such quarters, apartments, or sleeping or living areas, or by the construction of guest quarters containing separate kitchen and bathroom facilities, whether or not accessible by a doorway constructed for the exclusive use of such facilities.
- C. Single family dwellings shall not be designed or constructed to accommodate more than one family. Such dwellings shall not have more than four (4) exterior doorways for ingress and egress.
- D. All uses and buildings established or expanded under the provisions of this Chapter shall comply with the high risk erosion area setback requirements of the Michigan Shore Lands Protection and Management Act (P.A. 222 of 1976, as amended).
- E. All land disturbed as a result of construction in this District shall be stabilized during construction to minimize soil erosion. Upon completion of construction, disturbed land shall be re-vegetated in a manner that restores the natural appearance of the land.
- F. No new development shall occur that will result in the diminishing of the height of a sand dune to accommodate a building or structure, or to enhance the view of surrounding land or water from the interior of a building or structure, or from an enclosed or unenclosed porch, deck or patio.

SECTION 13.07 MDNR CONSTRUCTION PERMITS REQUIRED

Construction activity of any kind, including excavation associated with the construction of a driveway, access easement, roadway or preparing a lot for construction and the clearing of vegetation, shall not occur until a MDNR construction permit has been obtained.

CHAPTER 14 FOD FLOOD OVERLAY DISTRICT

SECTION 14.01 FINDINGS OF FACT AND PURPOSE

- A. The flood hazard areas of White River Township are subject to periodic inundation, which can result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.

(See White River Township Flood Insurance Rate Map, National Flood Insurance, Community Panel No. 26029900010A, Federal Insurance Administration, United States Department of Agriculture.)

This is an overlay district. The regulations of this District are in addition to those of the underlying zoning district and any other applicable overlay zoning district.

- B. It is the purpose of this District to promote the public health, safety and general welfare and to minimize those losses described in subsection A above, by provisions designed to:
1. Restrict or prohibit uses which are dangerous to health, safety, or property in times of flood or cause excessive increases in flood heights or velocities.
 2. Require that uses which are vulnerable to flood, including public facilities which serve such uses, shall be protected against flood damage at the time of initial construction.
 3. Minimize expenditures in flood control projects and emergency relief.
 4. Protect individuals from buying lands which are unsuited for intended purposes because of flood hazard.
 5. Maintain full status in the National Flood Insurance Program.
 6. Implement land use and water quality plans.

SECTION 14.02 GENERAL PROVISIONS

- A. Compliance. No lot shall hereafter be used and no structure or building shall be located, built, expanded, extended, converted or structurally altered without full compliance with the terms of this Chapter, the underlying zoning district, and other applicable regulations.
- B. Abrogation and greater restrictions. It is not intended by this Chapter to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions.

However, where this Chapter imposes greater restrictions than other portions of this Ordinance, the provisions of this Chapter shall prevail. Principles, standards, and procedures of Public Acts 231 (1970), 346 (1972), and 288 (19967) are reflected in and may be extended by this Ordinance.

- C. Interpretation. In their interpretation and application, the provisions of this Chapter shall be held to be minimum requirements and shall be liberally construed in favor of the Township and shall not be deemed a limitation or repeal of any other powers granted by state statutes.
- D. Warning and disclaimer of liability. The degree of flood protection required by this Chapter is considered reasonable for regulatory purposes and is based on engineering and scientific methods of study. Larger floods may occur on rare occasions. Flood heights may be increased by man-made or natural causes, such as ice jams and bridge openings restricted by debris. This Chapter does not imply that areas outside the flood plain districts or land uses permitted within such districts will be free from flooding or flood damages. This Chapter shall not create liability on the part of White River Township or any officer or employee thereof for any flood damage that result from reliance on this Chapter or any administrative decision lawfully made thereunder.
- E. The FOD District is an overlay district which does not displace the underlying zoning district. Where any regulation of the CDO District conflicts or is different than a regulation of the underlying zoning district or other portion of this Ordinance, the stricter regulation shall govern.

SECTION 14.03 STANDARDS FOR FLOOD HAZARD USES

A. All uses. No structure, temporary or permanent, building, fill (including fill for streets and levees), deposit, obstruction, storage of materials or equipment, or any other use is allowed as a use which, acting alone or in combination with existing or future uses, unduly affects the capacity of the floodway or unduly increases flood heights. Consideration of the effects of a proposed use shall be based on a reasonable assumption that there will be an equal degree of encroachment extending for a significant reach on both sides of the stream. In addition, all flood hazards shall be subject to the standards contained in this Chapter.

B. Fill.

- 1. Any fill proposed to be deposited must be shown to have some beneficial purpose and the amount thereof shall not be greater than is necessary to achieve that purpose, as demonstrated by a plan submitted to the Township by the landowner showing the uses to which the fill land will be put and the final dimensions of the proposed fill or other materials.

2. Such fill or other materials shall be protected against erosion by riprap, vegetative cover, or bulkheading.

C. Structures (temporary or permanent).

1. All structures shall have a low flood damage potential.
2. Each structure shall be constructed and placed on the building site so as to offer the minimum obstruction to the flow of floodwater.
 - a. Whenever possible, structures shall be constructed with the longitudinal access parallel to the direction of flood flow, and
 - b. So far as practicable, structures shall be placed on approximately the same flood flow lines as those of adjoining structures.
 - c. Structures shall be raised on a “stilt” supported platform such that materials placed in the floodway shall constitute no more than ten percent (10%) of the total coverage of the structure.
3. Structures shall be firmly anchored to prevent flotation which may result in damage to other structures, restriction of bridge openings, and other narrow sections of the watercourse, stream, or river.
4. Service facilities such as electrical and heating equipment shall be constructed at or above the regulatory flood protection elevation for the particular area.

D. Special Land Uses:

1. Procedure to be followed by the Planning Commission in reviewing Special Land Use applications within the CDO District. Upon receiving an application for a special land use which involves the use of fill, construction of structures or buildings, or storage of materials, the Planning Commission may, prior to rendering a decision thereon:
 - a. Require the applicant to furnish such of the following information as is deemed necessary for determining the suitability of the particular site for the proposed use.
 - (1) Plans in triplicate drawn to scale showing the nature, location, dimensions, and elevation of the lot, existing or proposed structures, fill, utilities, streets, sanitary facilities, storage of materials, flood proofing measures, and the relationship of the above to the location of the channel floodway and regulatory flood protection elevation.

- (2) A typical valley cross-section showing the channel of the stream, elevation of land areas adjoining each side of the channel, cross-section areas to be occupied by the proposed development, and high water information.
 - (3) Photographs showing existing land uses and vegetative upstream and downstream, soil types, and other pertinent information
 - (4) Profile showing the slope of the bottom of the channel or flow line of the stream.
 - (5) Specifications for building construction and materials, flood proofing, filling, dredging, grading, channel improvement, storage of materials, water supply, and sanitary facilities.
 - b. Transmit one copy of the information described above to a designated engineer or other expert person or agency for technical assistance, where necessary, in evaluating the proposed project in relation to flood heights and velocities, the seriousness of flood damage to the use, the adequacy of the plans for protection, and other technical matters.
 - c. Based upon the technical evaluation of the designated engineer or expert, the Planning Commission shall determine the specific flood hazard at the site and shall evaluate the suitability of the proposed use in relation to the flood hazard.
2. Additional factors upon which the decision of the Planning Commission shall be based. In reviewing applications for special land uses within the CDO District, the Planning Commission shall consider all relevant factors and standards specified elsewhere in this Ordinance and also the following:
- a. The potential danger to life and property due to increased flood heights and velocities caused by encroachments.
 - b. The potential danger that materials may be swept on to other lands or downstream to the injury of others.
 - c. The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination and unsanitary conditions.

- d. The susceptibility of the proposed building, structure, or use and its contents to flood damage and the effect of such damage on the individual owner.
 - e. The importance of the services provided by the proposed building, structure, or use to the community.
 - f. The requirements of the building, structure, or use for a water-front location.
 - g. The availability of alternative locations not subject to flooding for the proposed use.
 - h. The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.
 - i. The relationship of the proposed use to comprehensive land use and water quality plans and flood plain management programs for the area.
 - j. The safety of access to the property in times of flood for ordinary and emergency vehicles.
 - k. The expected heights, velocity, duration, rate of rise, and sediment transportation of the floodwater expected at the site.
 - l. Such other factors which are relevant to the purposes of this Ordinance.
3. Conditions attached to Special Land Use approvals. Upon consideration of the factors listed above and in other sections of this Ordinance, the Planning Commission may attach such conditions to the granting of Special Land Uses as it deems necessary to further the purposes of this Chapter. Such conditions may include:
- a. Modification of waste disposal and water supply facilities.
 - b. Limitations on periods of use and operation.
 - c. Imposition of operational controls, sureties and deed restrictions.
 - d. Requirements for the construction and maintenance of channel modifications, dikes, levees and other protective measure

SECTION 14.04 FLOOD PROOFING MEASURES

Flood proofing measures such as the following shall be designed and utilized consistent with the flood protection elevation for the particular area, flood velocities, durations, rate of rise, hydrostatic and hydrodynamic forces, and other factors associated with the regulatory flood. The Planning Commission may require that the applicant submit a plan or document certified by a registered professional engineer indicating that the flood proofing measures are consistent with the regulatory flood protection elevation and associated flood factors for the particular area. The flood proofing measures may be required without limitation.

- A. Anchorage and/or additional weight to resist flotation and lateral movement.
- B. Installation of watertight doors, bulkheads and shutters, or similar methods of construction.
- C. Construction and/or reinforcement of walls to resist water pressures and floating debris.
- D. Use of paints, membranes, or mortars to reduce seepage of water through walls.
- E. Installation of pumps and/or sumps to lower water levels in structures.
- F. Construction of water supply and waste treatment systems so as to prevent the entrance and contamination of flood waters.
- G. Pumping facilities or comparable practices for subsurface drainage systems for buildings to relieve external foundation wall and basement flood pressures.
- H. Installation of valves or controls on sanitary and storm drains which will permit the drains to be closed to prevent backup of sewage and storm waters into the basements may be eliminated by mechanical devices.
- I. Location of all electrical equipment, circuits, and installed electrical appliances in a manner which will assure they are not subject to flooding and to provide protection from inundation by the regulatory flood.
- J. Location of any structural storage facilities for chemicals, explosives, buoyant materials, flammable liquids or other toxic materials which could be hazardous to public health, safety and welfare in a manner which will assure that the facilities are situated at elevations above the height associated with the regulatory flood protection elevation to prevent flotation of storage containers, or damage to storage containers which could result in the escape of toxic materials into flood waters.
- K. Drainage of the flood plain areas.

SECTION 14.05 Nonconforming uses and structures

A structure or building or the use of a structure, building, or premises which was lawful before the passage or amendment of the Chapter, but which is not in conformity with the provisions of this Chapter may be continued, subject to the following provisions:

- A. No such building, structure, or use shall be expanded, changed, enlarged, or altered in a way which increases its nonconformity or flood damage potential.
- B. No structural alteration, addition, or repair to any nonconforming structure or building over the life of the structure or building shall exceed its state equalized value at the time of its becoming a nonconforming use, unless the structure or building is permanently changed to a conforming use.
- C. If such a use is discontinued for eighteen (18) consecutive months, any future use of the building or structure shall conform to this Chapter. The Township Assessor shall notify the Planning Commission in writing of instances of nonconforming uses which have been so discontinued.
- D. If any nonconforming use, building, or structure is destroyed by any means, including floods, to a value equal to or in excess of its state equalized value, it shall not be reconstructed except in conformity with the provisions of this Chapter.
- E. Uses or adjuncts thereof which are or become nuisances shall not be entitled to continue as nonconforming uses.
- F. Except as otherwise provided above, any use which has been approved as a special land use shall be considered a conforming use.

SECTION 14.06 SUPPLEMENTAL DEFINITIONS

Unless specifically defined below, words or phrases used in this Chapter shall have meaning as commonly applied, giving this ordinance its most reasonable application:

- A. Base flood. A flood having a one percent (1%) chance of being equaled or exceeded in any given year. This flood is also referred to as the 100-year flood.
- B. Channel or canal. An elongated depression, either natural or man-made, having a bed and well defined banks varying in depth, width and length which gives direction to a current of water, and is normally described, as a creek, stream, or riverbed.
- C. Cross-section. A graph showing the shape of the stream bed and adjacent land on either side made by plotting elevations at measured distance along a perpendicular to the centerline of the stream.

- D. Encroachment lines. Limits of obstruction to flood flows. They are established by assuming that the development of the landward area will permit passage of flood flows. The floodway must be free of encroachment and adequate to convey the regulatory flood without raising the water surface more than one (1) foot.
- E. Flood or flooding. A general and temporary condition of partial or complete inundation of normally dry land areas from:
 - 1. The overflow of inland waters.
 - 2. The unusual and rapid accumulation of runoff of surface waters from any source.
- F. Flood hazard overlay area. Land which, on the basis of available flood plain information, is subject to one percent (1%) or greater chance of flooding in any given area.
- G. Flood Insurance Rate Map (FIRM): The official map of a community on which the Federal Insurance Administration has delineated both the areas of special flood hazards and the risk premium of zones applicable to the community.
- H. Flood insurance study. The official report provided by the Federal Insurance Administration. The report contains flood profiles, as well as the Flood Hazard Floodway Map and the water surface elevations of the base flood.
- I. Flood plain. The relatively flat area or low lands covered by floodwater originating with either the adjoining channel of a water course such as a river or stream, or a body of standing water such as an ocean or lake.
- J. Flood Profile. A graph showing the relationship of water surface elevation to location along the stream. The latter is generally expressed as distance above the mouth of the stream in miles while it is drawn to show surface elevations for the crest of a specific flood, it may be prepared for conditions at any other given time or stage.
- K. Flood proofing. All combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved property, water and sanitary facilities, structures, and their contents.
- L. Flood Stage. The elevation at which overflow of the natural stream banks or body of water occurs.
- M. Floodway. The channel of a river or other water-course and the adjacent; land areas designated in the Flood Insurance Study which must be reserved in order to discharge the base flood. Floodway is also the same as the regulatory floodway.

- N. Frequency. The expected recurrence interval for a given size flood bases upon long-term statistical probability. Large floods occur less frequently and smaller floods occur more frequently.
- O. Intermediate Regional Flood. A flood having a one percent (1%) probability of occurring in any one year at a designated location. It is based on statistical analysis of stream flow records available for the watershed and analysis of rainfall and runoff characteristics in the general region of the watershed.
- P. Obstruction. Any structure or matter in, along, across, or projecting into any channel, water course or regulatory flood hazard area which may impede, retard, or change the direction of the flow of water, either in itself or by catching or collecting debris carried by such water, where the flow of water might carry the same downstream to the damage of life or property.
- Q. Reach. A longitudinal segment of a stream or river, including the portion of the flood hazard area of which flood heights are influenced by a natural or manmade obstruction.
- R. Regulatory Flood. A flood representative of large floods known to have occurred in the area and reasonably characteristic of a particular stream. The regulatory flood generally has a frequency of occurrence of once in 100 years determined from an analysis of floods on the particular stream and other streams in the region.
- S. Regulatory Flood Protection Area. The elevation to which uses regulated by this Ordinance are required to be elevated or flood proofed.
- T. Standard Project Flood. The flood that may be expected from the most severe combination of meteorological and hydrological conditions that are considered reasonably characteristic of the geographical area in which the drainage basin is located.
- U. Substantial Improvement. Any repair, reconstruction, or improvement of a structure or building located within the 100-year flood plain, the cost of which equals or exceeds fifty percent (50%) of the market value of the structure or building either:
1. before the improvement or repair is started, or
 2. if the structure or building has been damaged and is being restored, before the damaged occurred.

For purposes of this the definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor or other structural part of the building commences; whether or not that alteration affects the external dimensions of the structure.

The term does not, however include either:

3. any project for improvement of a structure or building to comply with existing state or local health, sanitary to safety code specification which are solely necessary to assure safe living conditions, or
4. any alteration of a structure or building listed on the National Register or Historic Places or the Michigan Register of Historic Places.

CHAPTER 15 SITE PLAN REVIEW

SECTION 15.01 PURPOSE

The purpose of this Chapter is to provide for consultation and cooperation between the applicant and the Planning Commission in order that the applicant may realize planned objectives in the use of land within the regulations of this Zoning Ordinance. It is also intended to ensure that the development be completed with minimum adverse effect on the use of adjacent streets and highways, and on existing adjacent and future land uses and the natural environment.

SECTION 15.02 SITE PLANS REVIEWED

In accordance with the provisions of this Chapter, a site plan review and approval by the Planning Commission shall be required prior to the establishment of a new use or the erection or extension of a building in the Districts and conditions cited below:

- A. Staff approval: The following uses shall be subject to approval by the Zoning Administrator:
 - 1. One family detached dwellings (except as may be provided in a site condominium development).
 - 2. Agricultural uses.
 - 3. A change of use that does not result in the change in the building footprint.
 - 4. Family day care and foster care facilities.
 - 5. Accessory buildings and uses of the above uses.
- B. Planning Commission approval: Site plan review and approval by the Planning Commission is required for the following:
 - 1. Any commercial, business, office, or industrial use, building, or structure.
 - 2. Special Land Uses in all Districts.
 - 3. Site and other condominiums in any District.
 - 4. Developments or land divisions involving or creating four (4) or more lots, units, or parcels.
 - 5. Planned Unit Developments.
 - 6. Private streets.

7. Grading, excavation, filling, soil removal, creation of ponds (or lakes) or tree clearing of over one (1) acre.
8. Any other use, item, activity, or structure wherein this Ordinance requires site plan review.
9. Changes to or expansions of any of the above.

SECTION 15.03 SITE PLAN REVIEW REQUIREMENTS

A. Optional Preliminary Site Plan Review.

1. Nine (9) copies of a preliminary site plan may be submitted by the applicant for review by the Planning Commission prior to final site plan submittal. The purpose of this optional procedure is to allow discussion between the applicant and the Planning Commissioners, to better inform the applicant of the acceptability of the proposed plans prior to incurring extensive engineering and other costs which might be necessary for final site plan approval.
2. Preliminary site plan submittal shall include the information as listed within subsection C, below, unless deemed unnecessary by the Zoning Administrator. Preliminary site plans shall be at a scale not to exceed 1 inch equals 100 feet (1" = 100').
3. The Planning Commission shall review the preliminary site plan and make any recommendations to the applicant in the context of the standards required by this Ordinance. The Planning Commission shall advise the applicant as to the general acceptability of the proposed plan, but shall not be bound by any statements or indications of acceptance of the plan.

B. Final Site Plan Review

1. If submission of a preliminary site plan is not desired by the applicant, nine (9) copies of a final site plan prepared by a professional engineer, architect, or land surveyor may be submitted for review without first receiving a review of a preliminary plan. Final site plans shall be at a scale not less than one inch equals twenty feet (1"=20') for property under three (3) acres and at least one inch equals one hundred feet (1"=100') for those three (3) acres or more.
2. Applications for final site plan reviews shall include the information as listed within subsection C, below, unless deemed unnecessary by the Zoning Administrator.

C. Required Site Plan Submission Requirements

Basic Information for Both Preliminary and Final Site Plan Requirements	
A general location sketch showing at minimum, properties, streets and use of land within 1/2 mile of the area.	
Zoning of surrounding properties.	
Legal description of the subject property.	
The date, north arrow, and scale.	
Name and address of the property owner or petitioner.	
Name and address of the person and/or firm who drafted the plan and the date on which the plan was prepared.	
Existing zoning and use of all properties abutting the subject property.	
All buildings, parking and driveways within 100 feet of all property lines.	
Narrative: Shown on the site plan or submitted separately, describing in general terms:	The overall objectives of the proposed development.
	Size (in acres) of the subject property and approximate number of acres allocated to each proposed use and gross area in building, structures, parking, public streets and drives, and open space as applicable.
	Dwelling unit densities by type, if applicable.
	Proposed method of providing sewer and water service, as well as other public and private utilities.
	Proposed method of providing storm drainage.
Preliminary Site Plan Requirements	
Property lines and approximate dimensions.	
Building location(s)	
Existing adjacent streets and proposed streets.	
Parking lots and access points.	
Proposed buffer strips or screening.	

Significant natural features; and other natural characteristics, including but not limited to open space, wetlands, stands of trees, brooks, ponds, floodplains, hills, slopes of over 15%, and similar natural assets or hazards.
Any signs not attached to the building(s).
General topographical features at contour intervals no greater than 10 feet.
Existing and proposed uses, buildings and structures.
Basic Information for Both Preliminary and Final Site Plan Requirements
Final Site Plan Requirements (in addition to other information requirements above)
Seal, name, and firm address of the professional individual responsible for the preparation of the site plan.
Property lines and required setbacks shown and dimensioned.
Dimensions of all existing and proposed structures on the subject property including dwelling unit densities by type, if applicable.
Size and location of existing and proposed utilities, including any proposed connections to public or private community sewer or water supply systems.
All existing and proposed drives (including dimensions and radii), acceleration/deceleration lanes, sidewalks, signs, exterior lighting, curbing, parking areas (including the dimensions of a typical parking space and the total number of parking spaces to be provided), fire lanes, and unloading areas.
Existing and proposed topographic contours - minimum 5 foot intervals.
Pavement width and right-of-way width of all roads, streets, and access easements within 100 feet of the subject property. Private Road cross-sections, as appropriate.
Location and size of all surface water drainage facilities.
Snow storage areas
Location of all solid waste disposal facilities, including recycling, and screening.
Location and specifications for existing or proposed outside, above or below ground storage facilities for hazardous materials.
All existing vegetation and the location, type, and size of all proposed landscaping, and the location, height and type of existing and proposed fences and walls.

Recreation areas, common use areas, flood plain areas and areas to be conveyed for public use and purpose.
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Exterior lighting showing area of illumination and indicating the type and height of fixture to be used.
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D. Additional Information

1. The Planning Commission, prior to granting approval of a site plan, may request from the applicant any additional graphics or written materials, prepared by a qualified person or person(s) to assist in determining the appropriateness of the site plan. Such material may include, but need not be limited to, aerial photography, photographs, impacts on significant natural features and drainage, soil tests, and other pertinent information.
2. The Zoning Administrator or Planning Commission may require a Traffic Impact Assessment or Traffic Impact Study pursuant to Institute for Transportation Engineers standards as part of final site plan review. The level of detail required for either a Traffic Impact Assessment of Study is based upon the expected amount of traffic to be generated by the proposed use, as noted below.
 - a. Traffic Impact Assessment: A traffic impact assessment shall be required for projects expected to generate either between 50 - 99 direction trips during the peak hour or 500 - 750 directional trips during a typical day. The assessment shall evaluate current and future inbound and outbound traffic operations at site access points and shall include proposed access design and other mitigation measures that will positively affect traffic operations at these points.
 - b. Traffic Impact Study: A traffic impact study shall be required for projects expected to generate either 100 or more directional trips in the peak hour or over 750 trips on an average day. The study shall evaluate pedestrian access, circulation and safety, and current, background and future traffic operations at site access points and major signalized or nonsignalized intersections in proximity to the site. The study must also include proposed access design and other mitigation measures that will positively affect traffic operations at the site and nearby intersections. The study must take into account the Master Plan in analyzing future traffic developments.

SECTION 15.04 APPLICATION AND REVIEW

- A. A completed site plan review packet including nine (9) site plans, a completed application form, the application fee, and escrow deposit (if applicable), shall be submitted to the Zoning Administrator prior to the deadline for the next regular Planning Commission meeting. The Zoning Administrator shall review the packet for completeness. If deemed complete the Zoning Administrator shall put the request on the agenda of the next regular Planning Commission meeting. Applications shall not be accepted unless all required materials and fees are submitted and are declared complete by the Zoning Administrator.
- B. The Planning Commission shall approve, deny, or approve subject to conditions, the site plan, in accordance with the provisions of this Chapter.
- C. Any conditions imposed or modifications recommended by the Planning Commission shall be recorded in the minutes or in a separate approval document.
- D. Two (2) copies of the final approved site plan shall be signed and dated by the Planning Commission Chairperson or designee and the applicant. The Township shall keep one (1) of these approved copies on file, one (1) shall be returned to the applicant or his designated representative.
- E. Each development subject to site plan review shall be substantially under construction within one (1) year after the date of approval of the site plan, except as noted below.
 - 1. The Planning Commission may grant a single one (1) year extension of the time period, provided the applicant requests, in writing, an extension prior to the date of the expiration of the site plan. The Planning Commission may require a performance guarantee as part of the extension.
 - 2. The extension shall be approved if the applicant presents reasonable evidence to the effect that the development has encountered unforeseen difficulties beyond the control of the applicant, and the project will proceed within the extension period.
 - 3. If neither of the above provisions are fulfilled or the one (1) year extension of site plan approval shall be null and void and any performance guarantees may be exercised to finalize required improvements.

SECTION 15.05 CHANGES IN THE APPROVED SITE PLAN

- A. The holder of an approved site plan shall notify the Zoning Administrator of any proposed change to the site plan. No use, building, or structure shall violate the

approved site plan. No change in the use or the addition, expansion, or alteration of a building, structure, or use shall occur prior to an amended site plan being approved.

- B. Minor changes may be approved by the Zoning Administrator upon determining that the proposed revision(s) meet the standards of the Ordinance and the intent of the design and will not alter the basic design or any specified conditions imposed as part of the original approval. A revised site plan shall be submitted which reflects the approved changes. Minor changes shall include the following:
1. For residential buildings, the square footage of structures may be reduced or increased by ten percent (10%) of the originally approved area, provided the overall density of units does not increase, the minimum square footage and parking requirements are met, and the building(s) do not extend outside a designated building envelop, or into any required open space or required setback.
 2. Gross floor area of nonresidential buildings may be decreased or increased by up to ten percent (10%) or two thousand (2,000) square feet, whichever is smaller, of the originally approved area, provided parking requirements are met and the building does not extend into any required open space or required setback.
 3. Floor plans may be changed if consistent with the character of the use.
 4. Relocation of a building by up to five (5) feet, if consistent with required setbacks, open space and other requirements.
 5. Height of buildings may be lowered.
 6. Designated woodlands or areas not to be disturbed may be increased.
 7. Plantings on the approved landscape plan may be replaced by similar types of landscaping on an equal or greater basis; any trees shown as preserved on the final site plan and subsequently lost during construction shall be replaced on a caliper-per-caliper basis on the site.
 8. Improvements or slight redesign of site access or circulation, such as inclusion of deceleration lanes, boulevards, curbing or pedestrian/bicycle paths, where appropriate.
 9. Changes of building materials to another of higher quality, or a slight change in exterior material, as determined by the Building Official.
 10. Grade change of up to one (1) foot, after review by the Township Engineer.

11. Modification of entry design, sign placement or reduction in size of signs, which is consistent with the intent of an approved Planned Unit Development plan.
 12. Internal rearrangement of parking lots which does not affect the number of parking spaces or alter access locations or design.
 13. Changes to the location of accessory buildings and structures, when the new location will be consistent with the building envelope identified on the approved plan, and when it would not extend into any required open space or required setback.
 14. Changes required or requested by the Township, County or State for safety reasons.
- C. A proposed change not determined by the Zoning Administrator to be minor shall be submitted to the Planning Commission as a site plan amendment and shall be reviewed in the same manner as the original application. If the Zoning Administrator determines that a proposed minor change may have a major impact on the neighborhood or area involved, he/she may refer the plan to the Planning Commission and the plan shall be reviewed in the same manner as the original application.

SECTION 15.06 REVIEW STANDARDS

- A. The following standards shall be utilized by the Planning Commission in reviewing all site plans. These standards are intended to provide a frame of reference for the applicant in the preparation of site plans as well as for the reviewing authority in making judgments concerning them. These standards shall not be regarded as inflexible requirements. They are not intended to discourage creativity, invention, or innovation.
- B. Site Development Standards
1. The uses proposed will not adversely affect the public health, safety, or welfare.
 2. Uses and structures located on the site shall take into account topography, size of the property, the uses on adjoining property and the relationship and size of buildings to the site. The site shall be developed so as not to impede the normal and orderly development or improvement of surrounding property for uses permitted in this Ordinance.
 3. The site plan shall provide reasonable visual and sound privacy for all dwelling units located within and adjacent to it. Fences, walls, barriers,

and landscaping shall be used, as appropriate, to accomplish these purposes. Appropriate fencing may be required by the Planning Commission around the boundaries of the development if deemed necessary to minimize or prevent trespassing or other adverse effects on adjacent lands. The Planning Commission may also require road or pathway cross-connections between developments.

4. The site shall be developed to create a pleasant, rural-paced atmosphere. Site amenities like street trees and benches may be required by the Planning Commission.
5. All buildings and groups of buildings shall be arranged so as to permit necessary emergency vehicle access as requested by the Fire Department.
6. Exterior lighting shall be arranged so that it is deflected away from adjacent properties and so that it does not interfere with the vision of motorists along adjacent streets. Lighting of buildings or structures shall be minimized to reduce light pollution.
7. All loading and unloading areas and outside storage areas, including areas for the storage of trash, which face or are visible from Residential Districts or public streets, shall be screened in accordance with the requirements of Section 3.14.
8. Site plans (as well as all buildings, structures, and uses thereunder) shall conform to all applicable requirements of this Ordinance as well as any other applicable Township, county, state, and federal requirements. Approval may be conditioned on the applicant receiving all necessary Township, county, state, and federal permits before final site plan approval or an occupancy permit is granted.
9. The general purposes and spirit of this Ordinance and the Master Plan of the Township shall be maintained.

C. Vehicular and Pedestrian Standards

1. Safe, convenient, uncongested, and well-defined vehicular and pedestrian circulation shall be provided for ingress/egress points and within the site. Drives, streets and other circulation routes shall be designed to promote safe and efficient traffic operations within the site and at ingress/egress points.
2. The arrangement of public or private vehicular and pedestrian connections to existing or planned streets in the area shall be planned

to provide a safe and efficient circulation system for traffic within the Township and to adjacent communities.

3. The minimum number of vehicular entrances and exits shall be provided at appropriate locations so as to maximize the convenience and safety for persons entering or leaving the site. The number of vehicular entrances to and exists from the site shall be determined with reference to the number of dwelling units or other land uses within the site, the nature and location of the surrounding streets, the effect of traffic in the area, nearby topography, and other factors.
4. Adequate traffic control shall be provided on site and throughout developments to ensure safe vehicular and nonmotorized cohabitation. The Planning Commission may require traffic calming measures, paved road shoulders, and deceleration or turn lanes when deemed necessary.
5. Sidewalks or trails appropriate for pedestrians or nonmotorized vehicles shall be required within the development and between developments but may be deferred with an appropriate performance guarantee.
6. The Planning Commission may require shared driveways or the consolidation of existing driveways for traffic safety where appropriate.

D. Environmental and Natural Features Standards

1. Removal or alteration of significant natural features shall be restricted to those areas which are reasonably necessary to develop the site in accordance with the requirements of this Ordinance. The Planning Commission may require that landscaping, buffers, and/or buffer strips be preserved and/or provided to ensure that proposed uses will be adequately buffered from one another and from surrounding public and private property.
2. Landmark trees and significant vegetation slated for protection shall be marked on site to prevent their damage during construction.
3. Appropriate measures shall be taken to ensure that removal of surface waters will not adversely affect storm drainage.
4. Surface water on all paved areas shall be collected at intervals so that it will not obstruct the flow of vehicular or pedestrian traffic or create puddles in paved areas. Subsurface landscape islands within parking lots are encouraged. Catch basins may be required to contain oil filters

or traps to prevent contaminants from being directly discharged to the natural drainage system.

5. Storm water drainage design shall recognize existing natural drainage patterns. Storm water removal shall not adversely affect neighboring properties or the public storm drainage system.
6. Areas of natural drainage such as swales, wetlands, ponds, or swamps shall be protected and preserved insofar as practical in their natural state to provide areas for natural habitat, preserve drainage patterns and maintain the natural characteristics of the land.
7. Provisions shall be made to accommodate storm water on-site wherever practical. Direct discharge of storm water into surface waters is prohibited. Where feasible, nonstructural control techniques shall be utilized which shall:
 - a. Limit land disturbance and grading.
 - b. Maintain vegetated buffers and natural vegetation.
 - c. Minimize impervious surfaces.
 - d. Use terraces, contoured landscapes, runoff spreaders, grass, or rock-lined swales.
 - e. Use infiltration devices.
 - f. Prevent the need to use large detention basins.

SECTION 15.07 SITE PLAN APPROVALS AND CONDITIONS

- A. As part of an approval to any site plan, the Planning Commission may impose any additional conditions or limitations as in its judgment may be necessary for protection of the public interest and to meet the standards of this Chapter and the Ordinance. A record of conditions shall be maintained. The conditions shall remain unchanged unless an amendment to the site plan is approved in accordance with this Ordinance.
- B. Conditions imposed shall be related to and ensure that the review standards of this Chapter and the Ordinance are met and shall meet the requirements of the Zoning Act.
- C. Approval of a site plan, including conditions made as part of the approval, shall apply to the property described as part of the application and to all subsequent owners and occupants.

- D. A record of the decision of the Planning Commission, the reason for the decision reached, and any conditions attached to the decision shall be kept and made a part of the minutes or other records of the Planning Commission.
- E. The Zoning Administrator shall make periodic investigations of developments for which site plans have been approved. Failure to maintain or comply with the requirements and conditions of the approved site plan shall be considered violations of this Ordinance.
- F. Any site plan review approval may be voided by the Zoning Administrator or Planning Commission if it has been determined that a material error in the original approval has been discovered either because of inaccurate information supplied by the applicant or administrative error by a staff member or other agency. The voiding of an approved site plan shall be communicated in writing with reasons for revocation to the property owner. The Building Official shall also be notified to withhold permits until a new site plan is approved.
- G. All uses, buildings, and structures shall fully comply with the approved site plan.

SECTION 15.08 PERFORMANCE GUARANTEES

The Planning Commission or Zoning Administrator may require a performance guarantee in accordance with Section 21.07 to ensure compliance with the approved site plan and other requirements of this Ordinance.

CHAPTER 16 SPECIAL LAND USES

SECTION 16.01 PURPOSE

Special Land Uses (also known as “special uses”) are those uses of land which are not essentially incompatible with uses permitted in a District, but possess characteristics or locational qualities which require individual review and discretion in order to avoid incompatibility with the character of the surrounding area, public services and facilities, and adjacent uses of land. Protection of surrounding property values and compatibility with existing and intended uses of the land are important considerations. The purpose of this Chapter is to establish equitable procedures and criteria that shall be applied in the determination of requests to establish Special Land Uses. The criteria for decision and requirements provided for under the provisions of this Chapter shall be in addition to those required elsewhere in this Ordinance which are applicable to the Special Land Use under consideration.

SECTION 16.02 APPLICATION AND REVIEW PROCEDURES

- A. An application for permission to establish a Special Land Use shall be submitted in accordance with the following procedures:
1. Applications for a Special Land Use shall be submitted to the Planning Commission through the Zoning Administrator. The Zoning Administrator will review the application for completeness, and then transmit it to the Planning Commission. Applications not meeting the requirements shall be returned to the applicant for completion.
 2. An application for a Special Land Use approval shall consist of the following:
 - a. Nine (9) copies of a site plan meeting the requirements of Chapter 15.
 - b. A completed application form, as provided by the Township.
 - c. Payment of a fee or fees, in accordance with a fee schedule, as determined by the Township Board from time to time; to be paid when the application is determined complete and accepted by the Zoning Administrator.
 - d. A legal description of the entire property that is the subject of the Special Land Use.
 - e. A statement with regard to compliance with the criteria required for approval in Section 16.03A.1-5, and other specific criteria imposed

by this Ordinance affecting the Special Land Use under consideration.

- f. Other materials as may be required by the Planning Commission.
- 3. Site plan review and approval is an integral part of the Special Land Use approval process.

B. Public Hearing

- 1. The application for a Special Land Use permit shall be submitted at least thirty (30) days prior to the next regular Planning Commission meeting.
- 2. Upon receipt of an application for a Special Land Use, the Planning Commission shall schedule a public hearing in accordance with state law for the purpose of receiving comments relative to the Special Land Use application.
- 3. One (1) notice of the public hearing for a Special Land Use shall be published in a newspaper that circulates in the township not less than fifteen (15) days before the hearing. Notice shall also be sent by mail or personal delivery to property owners and occupants of structures within three hundred (300) feet of the boundary of the property. One (1) copy of the notice shall also be provided to the Township Clerk. The notice shall include:
 - a. The nature and location of the request.
 - b. When and where the request shall be considered.
 - c. When and where the ordinance, request and pertinent material may be examined.
 - d. When and where written comments shall be received concerning the request.
- 4. Upon the approval or approval with conditions by the Planning Commission, the applicant may apply for a building permit. When the conditions of approval require a revised site plan, it must be submitted and approved prior to the acceptance of a building permit application.
- 5. If a special land use request is denied by the Planning Commission, the reasons for the denial shall be stated in the minutes or other document of the Planning Commission and the applicant shall be provided a written explanation or such minutes or document.

SECTION 16.03 BASIS OF DETERMINATION; STANDARDS

Prior to approval of a Special Land Use application, the Planning Commission shall ensure that the standards specified in this Section, as well as applicable standards established elsewhere in this Ordinance, shall be satisfied by the completion and operation of the Special Land Use under consideration.

- A. The Planning Commission shall review the particular circumstances of the application under consideration in terms of the following standards, and shall approve a Special Land Use only upon a finding of compliance with each of the following standards, as well as applicable standards established elsewhere in this Ordinance:
 - 1. The Special Land Use shall be designed, constructed, operated and maintained in a manner harmonious with the character of adjacent property and the surrounding area.
 - 2. The Special Land Use shall not change the essential character of the surrounding area.
 - 3. The Special Land Use shall not be hazardous to adjacent property, or involve uses, activities, materials or equipment which will be detrimental to the health, safety or welfare of persons or property through the creation of hazardous or potentially hazardous situations or the excessive production of traffic, noise, odor, smoke, dust, fumes, glare or site drainage.
 - 4. The Special Land Use shall not place demands on public services and facilities in excess of current capacity.
 - 5. The Special Land Use shall be in general agreement with the Township Master Plan.
 - 6. The Special Land Use shall comply with all site plan review standards.
- B. The Planning Commission may impose conditions with the approval of a Special Land Use that are necessary to ensure compliance with the standards for approval stated in this Section and any other applicable standards contained in this Ordinance. The conditions shall be considered an integral part of the Special Land Use permit and shall be enforced by the Zoning Administrator.
- C. The Planning Commission may require a performance bond or other financial security to be posted by the applicant or by some other reasonable surety to insure that the Special Land Use complies with the conditions of approval.

SECTION 16.04 APPROVAL TERM AND EXPIRATION; MODIFICATIONS

- A. A Special Land Use approval, including conditions imposed, is attached to and shall run with the land for which the approval is granted, and shall be binding upon subsequent owners and all occupants of the subject land, and shall be recorded with the Muskegon County Register of Deeds within ninety (90) days of approval and prior to the issuance of a zoning or building permit.
- B. A specific type or kind of Special Land Use is only allowed (subject to approval) in a District where it is expressly listed as allowed.
- C. A Special Land Use approval shall be valid for one (1) year from the date of approval, and the Planning Commission may grant up to a one (1) year extension, unless approval is revoked as provided in Section 16.05, or the Special Land Use has been initiated, or construction necessary for such use has been substantially initiated and is proceeding meaningfully toward completion.
- D. If, by the end of the one (1) year extension, one of the following exists, the Special Land Use shall be deemed expired and no longer valid, and any zoning or building permit issued shall be revoked:
 - 1. The Special Land Use has not been initiated.
 - 2. Substantial construction necessary for the Special Land Use has not been initiated.
 - 3. Substantial construction has been initiated but is not proceeding meaningfully toward completion.
- E. No alteration of or change to or of an approved Special Land Use shall occur prior to the Planning Commission formally approving such change or alteration and an amended site plan.
- F. Minor changes to an approved Special Land Use can occur if approved by the Zoning Administrator under the standards of Section 16.03.
- G. Reapplication for approval of an expired Special Land Use approval shall be considered in the same manner as the original application.

SECTION 16.05 REVOCATION OF SPECIAL LAND USE APPROVAL

The Planning Commission may revoke any Special Land Use approval, or take any other action allowed by law, if the applicant fails to comply with any of the applicable requirements in this Chapter, any conditions placed on the approval by the Planning Commission, or any other applicable provisions of this Ordinance. Prior to revoking a Special Land Use approval, the Planning Commission shall conduct a public hearing and give notice of such hearing in accordance with Section 16.02B.

SECTION 16.06 SPECIFIC SPECIAL LAND USE STANDARDS

The following Special Land Uses shall be subject to the requirements of the District in which they are allowed, in addition to all the applicable conditions, standards, and regulations as are cited in this Section. The following uses have such conditions, standards, or regulations:

- A. Bed and breakfast establishments
- B. Bowling alleys
- C. Billboards
- D. Cemeteries
- E. Commercial greenhouses and nurseries
- F. Kennels
- G. Commercial stables
- H. Commercial storage warehouses
- I. Outdoor recreational uses, country clubs, golf courses, riding stables, and publicly-owned athletic grounds and parks, and other similar uses, including related uses, such as snack bars, pro-shops, restaurants, small retail shops selling goods directly related to the primary use, and other similar uses integral to the main use
- J. Day care center
- K. Drive through restaurants
- L. Farm labor housing
- M. Farm market
- N. Funeral homes and mortuary establishments
- O. Hotels and motels
- P. Intensive livestock operations
- Q. Multiple-family dwellings with no more than eight (8) units per structure and no more than thirty two (32) units per development
- R. Nursing homes
- S. Open air businesses

- T. Open space preservation development
- U. Produce or vegetable packaging plant
- V. Public boat launches
- W. Public or private campgrounds
- X. Raising of fur-bearing animals or game birds
- Y. Removal and processing of topsoil, stone, rock, sand, gravel, lime or other soil or mineral resources
- Z. Sale of animal feed, seed, fertilizers, and related farming products unless conducted as part of a bona fide farming operation where the operation does not require a Michigan sales tax license.
- AA. Adult uses
- BB. Sawmills
- CC. Schools, churches, libraries, parks, playgrounds and community center buildings
- DD. Shooting, rifle, and handgun ranges
- EE. State licensed residential group home care facilities
- FF. Theaters or similar places of public assembly
- GG. Vehicle body and repair shops
- HH. Vehicle service stations
- II. Vehicle wash establishments, either self-serve or automatic
- JJ. Veterinary clinics and hospitals
- KK. Wireless communication towers over 75 feet
- LL. Wind energy conversion systems (WECS)
- A. **Bed and breakfast establishments**
 - 1. The establishment shall be serviced by adequate water and sanitary sewer services, as approved by the Muskegon County Health Department.
 - 2. The establishment shall be located on property with frontage on a public road.

3. A bed and breakfast establishment shall not be permitted on any property where there exists more than one (1) other bed and breakfast establishment within one thousand, five hundred (1,500) feet, measured between the closest property lines.
4. The use shall only be established in a single-family dwelling.
5. Parking shall be located to minimize negative impacts on adjacent properties.
6. The number of guest rooms in the establishment shall not exceed five (5), plus one (1) additional guest room for each ten thousand (10,000) square feet of lot area, or fraction thereof, in excess of one (1) acre of lot area, not to exceed a maximum of nine (9) guest rooms in any case.
7. Exterior refuse storage facilities beyond what is normally expected for a single-family dwelling shall not be located in any front yard and shall be properly fenced in or screened from view on three sides.
8. Signs for bed and breakfast establishments shall be limited to one (1) ground sign. A ground sign shall not exceed sixteen (16) square feet in size, or six (6) feet in height, and must be set back at least five (5) feet from all property lines. The sign may be externally lighted only with spotlights.
9. The establishment shall contain and be the principal residence of the operator.
10. Accessory retail or service uses to a bed and breakfast establishment shall be made available only to overnight guests of the establishment (not to the general public), including but not limited to gift shops, bakeries, weddings or special events.
11. Meals shall be served only to the operator's family, employees, and overnight guests.
12. The design of the establishment must adhere to typical residential characteristics so that the dwelling unit retains its inherent singlefamily character.
13. All guest rooms must have interior access to common areas (e.g., dining sitting, restrooms, etc.)

B. Bowling alleys

1. The minimum lot size shall be five (5) acres.

2. The lot shall be located so at least one (1) side abuts a paved arterial or collector road and all access shall be from that road.
3. Entry drives and parking areas shall be a minimum of one hundred (100) feet from adjacent property lines.

C. Billboards

1. Billboards shall be located at least three hundred (300) feet away from any residential use or Residential District and shall be spaced at least one thousand (1,000) feet from another billboard. Billboards shall be at least two hundred (200) feet from any road intersection.
2. Nothing of a sexually explicit nature shall be presented on any billboard in the township.
3. The top of the billboard shall not exceed twenty (20) feet above the natural grade.
4. Billboards shall not be illuminated in any fashion because of their potential to: bleed light, cast glare in the public right-of-way, distracting drivers; take attention from on-premise businesses; or shine into adjacent residential areas.
5. The sign area shall be limited to two hundred (200) square feet in total.
6. The sign face shall comply with setback requirements of the District.
7. Billboards shall be located only on a lot or parcel with no building and no principal use.
8. Billboards with a digital, LED, or similar face or component are prohibited.

D. Cemeteries

1. Minimum lot area shall be five (5) acres and there shall be a minimum frontage of two hundred (200) feet.
2. The use shall be located on property with direct access to a public road.
3. Gravesites shall be setback a minimum of fifty (50) feet from the property line of any Residential District or use.

4. Buildings, including buildings for storage of equipment, shall be set back one hundred (100) feet from the property line of any abutting Residential District or use.
5. Driveways and parking areas shall be at least fifty (50) feet from any adjacent property line.

E. Commercial greenhouses and nurseries

1. Minimum lot area shall be two (2) acres and there shall be a minimum frontage of two hundred (200) feet.
2. The lot area used for parking, display, or storage shall be provided with a permanent, durable and dustless surface, and shall be graded and drained so as to dispose of all surface water.
3. Any display materials or equipment stored or displayed outside of an enclosed building shall not extend into any required yard or occupy any required parking or maneuvering areas for vehicles.
4. Driveways and parking areas shall be at least fifty (50) feet from any adjacent property line.
5. Ingress and egress to the lot shall be from a paved (primary) arterial or collector road.

F. Kennels

1. The minimum lot size shall be five (5) acres for the first ten (10) animals, plus one (1) additional acre for each additional five (5) animals.
2. All buildings or areas in which the animals are kept or exercised shall be set back a minimum of one hundred (100) feet from any adjoining property.
3. A screened/landscaped area shall be provided between all buildings or areas in which the animals are kept or exercised, and any adjacent residential use.
4. Animal waste shall be managed to prevent odors and other nuisances.
5. A kennel permit shall be obtained from the Muskegon County Animal Control Department.

G. Commercial stables

1. All lots shall have a minimum of three (3) acres for the first horse and an additional one-half (1/2) acre per each additional horse. Young equines below weaning age or six (6) months of age shall not need additional lot area.
2. Animal corrals or paddocks shall be a minimum of fifty (50) feet from an exterior property line or the ordinary high water mark of surface water.
3. Fencing shall be a minimum of four (4) feet in height and constructed of materials with the appropriate structural strength to restrain the animals.
4. All areas used as arenas for exercising, training, or exhibition of animals shall be maintained in a dust-free manner by an approved and acceptable means for the prevention of detrimental and nuisance effects of dust emission to surrounding properties.
5. The keeping and maintenance of horses, as provided for in this Section, shall comply with all regulations and provisions of the health and sanitation laws and codes of Muskegon County and the state. All premises and facilities upon which animals are permitted to be kept shall be maintained in a clean, orderly and sanitary condition at all times. All manure shall be removed or spread so as not to constitute a nuisance and in accord with Michigan Department of Agriculture and state and Muskegon County Health Department regulations. All premises and facilities shall be treated with biologically, ecologically and environmentally approved pesticides for the control of odors, insects and rodents, which in any way can be considered a clear and present nuisance or detriment to the health safety, comfort and welfare of the general public.
6. Parking shall be provided at a minimum of one (1) parking space per two (2) animals, based on the number of horse stalls or maximum number of horses that can be accommodated in the stables.
7. Enclosed riding arenas associated with commercial equine establishments shall not exceed ten thousand (10,000) square feet in gross floor area on a minimum of 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. No living quarters shall be located in any arena building or boarding stable.

H. Commercial storage warehouses

1. The use shall be on lots of at least two (2) acres, but not more than five (5) acres in size. No more than sixty percent (60%) of the lot may be used for buildings, parking lots and access.
2. The lot shall abut and gain access from a paved public arterial or collector road.
3. A six (6) foot, solid fence of a material acceptable to the Planning Commission, shall enclose the area occupied by the use. The fence shall be set back at least ten (10) feet from the front property line.
4. The front yard, up to the fence, shall be landscaped in accordance with Section 3.15.
5. Outdoor storage of boats and recreational vehicles is permitted provided the storage area is properly screened.
6. Minimum side and rear yards as specified for the District shall be maintained.
7. There shall be a minimum of thirty-five (35) feet between storage facilities for driveway, parking, and fire lane purposes. Where no parking is provided within the building separation areas, the building separation need only be twenty-five (25) feet.
8. Traffic direction and parking shall be designated by signs or painting.
9. The lot area used for parking shall be provided with a paved surface and shall be drained so as to dispose of all surface water.
10. Where the site abuts a Residential District, screening that complies with Section 3.15 shall be provided along that property line.

I. Outdoor recreational uses, country clubs, golf courses, riding stables, and publicly-owned athletic grounds and parks, and other similar uses, including related uses, such as snack bars, pro-shops, restaurants, small retail shops selling goods directly related to the primary use, and other similar uses integral to the main use

1. The site plan shall indicate the location of service roads, entrances, driveways and parking areas and shall be designed in relationship to the public road or street to ensure that pedestrian and vehicular traffic safety.

2. Development features shall be shown on the site plan, including the main and accessory buildings, structures and parking areas, located to minimize adverse effects upon adjacent property.
3. Buildings and parking areas shall be not less than one hundred (100) feet from any property line or abutting Residential District or use, provided that where topographic conditions are such that buildings would be screened from view. The Planning Commission may reduce this requirement where additional screening is provided.
4. Whenever a swimming pool is to be provided, it shall be located at least one hundred (100) feet from abutting Residential District and shall be provided with a protective fence six (6) feet in height and entry shall be by means of a controlled gate.
5. The minimum site area for tennis, or other racket sport shall be two (2) acres and the courts shall be located at least one hundred (100) feet from abutting Residential District or use.
6. Where the site abuts a Residential District, screening shall be provided along that property line. Grass, plant materials, and sight obscuring fences or walls, of a type approved by the Planning Commission, shall be placed within the buffer strip. The Planning Commission shall use Section 3.15 when determining what screening is needed.
7. A fifty (50) foot minimum natural vegetation strip between turf areas and natural water bodies, watercourses or wetlands must be maintained. The natural vegetation strip shall not be chemically treated.
8. The outdoor storage of trash or rubbish shall be screened in accordance with the screening requirements of Section 3.15.
9. Accessory uses may include; clubhouse/pro shop, managerial facilities, maintenance shed, toilets, lockers, restaurant and bar, driving range, tennis, racket sport, and swimming facilities.
10. Major accessory uses such as a restaurant shall be housed in a single building with the clubhouse. Minor accessory uses strictly related to the operation of the golf course or recreational use itself, such as a maintenance garage and pro-shop or golf shop, may be located in separate structures.
11. The clubhouse design is to be of a residential character and exterior materials are to be primarily wood or brick.

12. No building shall be erected to a height greater than that permitted in the District in which it is located.
13. The total lot area covered with principal and accessory buildings shall not exceed fifteen percent (15%).
14. All parking areas and access drives shall be paved.
15. No outdoor loudspeaker or call system shall be audible on adjoining property.
16. 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 setback. The area shall be buffered by natural vegetation and fencing to minimize the impact upon adjoining properties.
17. A minimum of two (2) satellite restrooms or other acceptable facilities are required for each nine (9) holes. The facilities are to be located away from lot lines and painted or finished in an earth tone color. Such facilities shall be approved by the Muskegon County Health Department.
18. Golf courses shall retain and preserve native vegetation over at least thirty percent (30%) of the total upland area of the course to reduce water demand, excessive soil erosion and heavy nutrient run off.
19. 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 feasible, 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. 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.
 - e. The area must provide secondary containment to prevent the spread of spills.
 - f. All herbicide, insecticide, fungicide and rodenticide chemicals must be stored in a locked enclosure.

- g. An inventory manifest of stored chemicals must be posted at the entrance of the building housing them.
 - h. At any time widespread or nonspot 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.
 - i. All chemical applications must be by a Michigan Department of Agriculture Licensed Applicator.
 - j. 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.
20. In order to ensure that the site can be restored to prior conditions should construction not be completed, the Township may require posting of a performance guarantee or other acceptable security.

J. Day care center

- 1. Facilities shall be located with direct access to a paved public road.
- 2. A facility shall not operate between the hours of 10:00 p.m. and 6:00 a.m. unless the main building and any play area are separated from any residence by more than three hundred (300) feet.
- 3. Playground equipment shall not be located in front or side yard.
- 4. All outdoor play areas shall be enclosed with fencing, a minimum of four (4) feet high or as required by the State of Michigan.
- 5. An off-street drop-off area is to be provided with the capability to accommodate at least four (4) vehicles in addition to the parking normally required for employees.
- 6. Activities associated with childcare shall not be permitted in any accessory building, structure, or attached or detached garage other than the main building.
- 7. There shall be provided on the site a useable outdoor area at the rate of at least sixty-six (66) square feet for each child, or as required by the State of Michigan.

K. Drive through restaurants

1. Sufficient stacking capacity for the drive-through portion of the operation shall be provided to ensure that traffic does not extend into the public right-of-way. A minimum of ten (10) stacking spaces for the service ordering station shall be provided.
2. Stacking spaces shall be located so as not to interfere with vehicular circulation and egress from the property by vehicles not using the drive-through portion of the facility.
3. In addition to parking space requirements, at least three (3) parking spaces shall be provided, in close proximity to the exit of the drivethrough portion of the operation, to allow for customers waiting for delivery of orders.
4. Access to the site shall be located according to minimum spacing of access points from intersections and spacing from other access points along the same side of the public street based on access spacing standards listed in Chapter 17.
5. The parking and maneuvering areas of the site shall be fenced and screened from the view of any abutting Residential District or use by a decorative fence or wall, or a landscaped equivalent.
6. Outdoor speakers for the drive through facility shall be located in a way that minimizes sound transmission toward an adjacent property.
7. The Planning Commission may establish reasonable hours of operation where it is determined that the proposed use may generate noise, glare, or similar disturbances upon nearby residents.

L. Farm labor housing

1. The lot size shall be a minimum of thirty (30) acres in size.
2. Seasonal housing shall only be used for persons and their families directly employed by the owner of the farm dwelling.
3. The rules, regulations, and standards of the State of Michigan governing the licensing and operation of seasonal housing shall apply where any dwelling is used to house one or more seasonal workers.
4. Seasonal housing shall be located at one hundred (100) feet from any public road, at least two hundred (200) feet from any other property line and four hundred (400) feet from any dwelling on adjacent property.

5. No newly constructed seasonal housing unit shall have more than one story nor accommodate more than one family. No farm labor housing structure shall be closer than thirty (30) feet to another structure.
6. To ensure adequate access for emergency vehicles and personnel, no seasonal housing unit shall be located closer than thirty (30) feet to a driveway or private road.
7. All construction shall conform to the building codes or regulations adopted by Muskegon County and other ordinances or laws where such regulations impose greater standards than state and federal regulations.
8. Any seasonal housing that is not occupied by seasonal workers during five (5) consecutive seasons shall be removed by the owner within six (6) months.

M. Farm market

1. Minimum lot size shall be three (3) acres.
2. Farm market activities may include entertainment functions associated with the farm including, but not necessarily limited to, cider processing, donut making, pumpkin carving, hayrides, apple dunking, and Christmas tree cutting.
3. No activity or structure shall be located within fifty (50) feet of the public road right-of-way.
4. All parking shall be located outside of the public road right-of-way. A minimum of ten (10) parking spaces shall be provided for the market. Facilities providing entertainment functions shall provide a minimum of fifty (50) spaces for off-street parking.
5. The access drive shall be wide enough to accommodate two vehicles side-by-side. Two access drives may be required by the Township where a facility is large enough to need additional access points.
6. Driveways shall be a minimum of fifty (50) feet from adjacent property lines.
7. Parking areas shall be a minimum of twenty-five (25) feet from adjacent property lines.
8. Suitable containers for rubbish shall be placed on the premises for public use.

9. Farm markets shall be located no closer than one hundred (100) feet from any lot line that abuts a residential zone or dwelling unit.
10. Hours of operation shall be limited to between the hours of 7:00 a.m. and 10:00 p.m.

N. Funeral homes and mortuary establishments

1. An off-street vehicle staging area shall be provided to accommodate funeral processions and activities. This area shall be in addition to the required off-street parking and its related maneuvering area.
2. No waiting lines of vehicles shall extend off-site or onto any public road.
3. Driveways and parking areas shall be at least fifty (50) feet from any adjacent property line.

O. Hotels and motels

1. Minimum lot area shall be three (3) acres and minimum lot width shall be two hundred (200) feet.
2. Ingress and egress shall be from a paved (primary) arterial or collector road.
3. Minimum floor area of each guest unit shall be two hundred and fifty (250) square feet.
4. Maximum building height shall not exceed the height limits of the district.

P. Intensive livestock operations

1. Minimum lot size shall be forty (40) acres.
2. Confined feedlots shall adhere to the generally accepted agricultural management practices (GAAMPS) promulgated by the State Department of Agriculture with respect to buffer areas, manure management, odor management, etc.

Q. Multiple-family dwellings with no more than eight (8) units per structure and no more than thirty-two (32) units per development

1. Minimum lot area shall be five (5) acres with a minimum lot frontage of two hundred (200) feet.

2. A minimum of fifteen percent (15%) common usable open space shall be provided on site which shall not include parking areas, driveways or require setbacks.
3. Driveways shall be a minimum of twenty-five (25) feet from adjacent property lines.

R. Nursing homes

1. Minimum lot size shall be three (3) acres with at least two hundred (200) feet of frontage.
2. The lot location shall be such that at least one (1) property line abuts an arterial or collector street. The ingress and egress for off-street parking areas for guests and patients shall be directly from that thoroughfare.
3. Main and accessory buildings shall be set back at least fifty (50) feet from all property lines.
4. The facility shall be designed to provide a minimum of two hundred (200) square feet of open space for every bed used or intended bed to be used. This open space shall include landscaping and may include off-street parking, driveways, required yard setbacks and accessory uses.

S. Open air businesses

1. Minimum lot area shall be two (2) acres with a minimum lot frontage of two hundred (200) feet.
2. The proposed site shall front upon, and all ingress and egress shall be from an arterial or collector road.
3. No access to or from such establishment shall be permitted on any (residential) local road.
4. A six (6) foot fence, wall, or appropriate greenbelt shall be constructed along the rear and sides of the lot, capable of keeping trash, paper, and other debris from blowing off the premises.
5. The lot area used for parking, display, or storage shall be provided with a durable and dustless surface, and shall be graded and drained so as to dispose of all surface water.

6. Any display materials or equipment stored or displayed outside of an enclosed building shall not extend into any required yard or occupy any required parking or maneuvering areas for vehicles.
7. The storage of any soil, fertilizer, or similar loosely packaged materials shall be sufficiently contained to prevent any adverse effect upon adjacent properties.

T. Open space preservation development

1. Minimum lot size shall be ten (10) acres.
2. At least fifty percent (50%) of the land area shall be preserved in permanent open space.
3. The proposed development shall meet the purpose of open space design objectives which is to promote the continuation of a rural land use character, protection of environmental resources, and preservation of active agricultural lands through clustering homes rather than laying them out along public roads or in a grid or curvilinear pattern found in many traditional subdivisions.
4. The open space development (OSD) design shall provide a sense of rural character for the residents of the individual developments affected by these regulations as well as the area as a whole.
5. The OSD design shall foster the preservation of significant natural features, large open spaces, or active agricultural land that would otherwise be altered from their natural or undeveloped condition.
6. All dwelling units shall be single-family detached housing.
7. The OSD design may include agricultural crops, stables, and private airports. The list of allowed uses shall be outlined in the special use permit.
8. The maximum base density and number of dwelling units permitted in the OSD shall be determined through the submission of a parallel plan showing the number of dwelling units that may be developed under the existing zoning classification. The Planning Commission may require additional detail or information as it may determine necessary to evaluate the feasibility of the parallel plan. The parallel plan shall meet the following minimum requirements:
 - a. The parallel plan shall contain enough detail to permit the Planning Commission to evaluate the feasibility of development for each lot.

- b. All lots or buildings shown on the parallel plans shall be located on buildable lots, which, for the purposes of this Section shall mean lots that are of sufficient size and shape to meet existing zoning requirements and accommodate a main building, septic and well systems and required roads and driveways.
 - c. Areas of wetlands, water bodies, and other unbuildable areas shall not be included within the buildable area of lots, and shall also not be included in the lot area calculations.
 - d. In evaluating the feasibility of the parallel plan, the Planning Commission shall consider whether or not the plan would have been approved under the processes normally used to review site plans or subdivision plans, including such factors as access, lot orientation, road layout, and other considerations the Commission deems appropriate.
9. The Planning Commission may authorize bonus densities in accordance with the table below for additional amenities provided by the developer of an open space development. In no case shall the density bonus total more than fifty percent (50%) of the density determined by the parallel plan.

Preservation of wetlands	5%
10% Additional open space provided	5%
20% Additional common waterfront frontage provided	5%
Trails and play equipment provided	10%
Wildlife habitat augmented (per Soil Conservation Service Standards)	5%
Community wastewater disposal system	30%
Community water service system	25%

10. Design Standards:
- a. Visual screening of dwellings from off-site road networks and open space preservation development boundaries shall be accomplished through the siting of residences, maximizing existing screens, and providing new natural screens and/or open space buffers where appropriate.

- b. A series of dead-ends or cul-de-sacs serving the development are discouraged. Eyebrow, court, or stub roads are preferred.
 - c. Entryways to OSDs shall be designed consistent with the rural and natural character of the surrounding area and shall consist of natural vegetation rather than groomed, landscaped areas.
 - d. Where adjoining areas are not subdivided, the arrangement of roads within the proposed open space community shall consider an extension to the boundary line of the project to make provision for the future projection of roads into adjoining areas.
 - e. Road systems shall be designed to allow for open space views.
11. Development Setback
- a. Any building lot shall be located at least two hundred (200) feet from any public road right-of-way.
 - b. No native or natural vegetation shall be removed from the two hundred (200) foot setback, nor any grading or changes in topography occur, except that necessary for entrance roads, required utilities, or drainage improvements. The Planning Commission may modify this requirement provided the applicant demonstrates that the clearing of existing vegetation would contribute significantly to the purpose and objectives of the OSD.
 - c. The Planning Commission may reduce this setback to not less than one hundred (100) feet if existing landscaping or topography provides a natural screen that substantially blocks the view to the proposed development.
 - d. The Planning Commission may require a landscape plan for the development setback area showing additional landscaping to enhance the screening of the OSD from the adjacent road. This landscaping may consist of existing vegetation, land forms, or landscaped areas using native or natural materials, or a combination thereof.
12. Designated open space shall be set aside through an irrevocable conveyance, approved by the township attorney, such as a recorded deed restriction, covenants that run perpetually with the land, a conservation easement, or land trusts. The dedicated open space shall forever remain open space, subject only to uses on the approved site plan. Further use of open space for other than recreation, agriculture, conservation purposes, except for easements for utilities, shall be

strictly prohibited. Any change in use of the open space from what is shown on the approved site plan shall require Planning Commission approval, and shall not diminish compliance with the requirements of this Section.

- a. The designated 'open space' shall be of functional value as it relates to opportunities for wildlife habitat, woodland preservation, agricultural use, recreation, visual impact, and access.
 - b. The open space and access to it shall be permanently marked and designed so individuals in the development are not forced to trespass to reach recreational or common open spaces.
 - c. The following land areas shall not be included as dedicated open space for the purposes of meeting minimum open space requirements:
 - (1) Required setback areas
 - (2) The area of any road right-of-way or private road easement.
 - (3) Surface water, detention or retention basins (unless designed to have the appearance of a natural wetland) in which case they may be counted for up to fifty percent (50%) of the required open space.
 - (4) Golf courses.
 - (5) Parking and loading areas, except those exclusively associated with a recreation facility or common open space area.
 - (6) Any other undeveloped areas not meeting the intent and standards for open space stated in this Section, as determined by the Planning Commission.
13. On-site common open space shall be planned in locations visible and accessible to all in the development. The Planning Commission shall determine if the proposed open space is usable and functional. The common open space may either be centrally located, located to preserve natural features, located to buffer adjacent uses, or located to connect open spaces throughout the development, provided the following areas shall be included within the open space area:
- a. Any significant natural features.

- b. At least one-third (1/3) of the required common open space shall be usable open space for the residents of the development.
- c. Open space, except for where trails and bike paths are located, shall have minimum dimension of one hundred (100) feet by one hundred (100) feet.
- d. Where an open space preservation development abuts a body of water, at least fifty percent (50%) of the shoreline, as well as reasonable access to it, shall be a part of the common open space land.
- e. A minimum fifty (50) foot wide undisturbed open space setback shall be maintained from the edge of any stream or wetland; provided that the Planning Commission may permit trails, boardwalks, observation platforms, or other similar structures that enhance passive enjoyment of the site's natural amenities within the setback.
- f. Where adjacent land includes open space, public land or existing or planned paths, open space connections shall be provided between the site and adjacent open space. Trails between adjoining open space development shall be constructed to allow future interconnection between developments.

U. Produce or vegetable packing plant

- 1. Minimum lot size shall be ten (10) acres.
- 2. Products to be packaged shall be grown in the area.
- 3. Areas accommodating trucks including loading docks and parking areas shall not be located in the front setback and shall be a minimum of one hundred (100) feet from any property line.
- 4. The Planning Commission may require screening in accordance with Section 3.15 where adjacent lands are zoned or used for residential purposes.

V. Public boat launches

- 1. Minimum lot size shall be one (1) acre.
- 2. A minimum fifty (50) foot vegetative buffer strip shall be maintained adjacent to the ordinary high water mark outside of the immediate boat launch area.

3. Parking spaces shall be design to accommodate a vehicle and trailer ten feet wide by thirty feet long (10x30) with ample turn-around facilities on-site.

W. Public or private campgrounds

1. Minimum lot area shall be ten (10) acres.
2. Campsites shall not be located within one hundred (100) feet of any property line.
3. Retail commercial uses may be permitted within the campground provided that the following requirements are met:
 - a. All commercial uses allowed shall occupy no more than two thousand (2,000) square feet.
 - b. No merchandise for display, sale or lease shall be located in any manner outside the main building, except for those specific items approved by the Planning Commission.
 - c. All commercial uses shall be setback two hundred (200) feet from any property line.
4. Each campsite shall have a minimum area of 1,500 square feet.
5. Common area shall be provided at the ratio of one thousand (1,000) square feet for each campsite.
6. Driveways and parking areas shall be at least fifty (50) feet from any adjacent property line.

X. Raising of fur-bearing animals or game birds

1. Minimum lot size shall be five (5) acres.
2. Minimum setback of one hundred (100) feet from any property line is required for the area used for breeding, rearing, selling, and housing the animals or birds.
3. Fencing will be required commensurate with that required to obtain a "Permit to Hold Wildlife in Captivity" permit from the Michigan Department of Natural Resources.
4. Hunting of animals or birds for sport or profit may be permitted in designated areas subject to State laws pertaining to separation distances required between hunting areas and residential structures.

5. Animal waste shall be disposed of in safe manner, as recommended by the Health Department. Such disposal shall not constitute a hazard to adjacent property owners.

Y. Removal and processing of topsoil, stone, rock, sand, gravel, lime or other soil or mineral resources

1. In addition to the information required for site plan review, the application shall include the following:
 - a. A written legal description of all of the lands proposed for the use.
 - b. Nine (9) copies of a plan for mineral removal, drawn and sealed by a registered civil engineer, and including the following, at a minimum:
 - (1) A north arrow, scale, and date;
 - (2) Shading indicating the extent of land area on which mineral removal operations and activities will take place;
 - (3) The location, width, and grade of all easements or rights-of-way on or abutting the lands;
 - (4) The location and nature of all structures on the lands;
 - (5) The location and direction of all water courses and flood control channels that may be affected by the mineral removal operations;
 - (6) Existing elevations of the lands at intervals of not more than five (5) feet;
 - (7) Typical cross sections showing the estimated extent of overburden, and estimated extent of mineral material location in, or on the lands, and the water table;
 - (8) Mineral processing and storage areas (including crushing, washing, asphalt plants, etc.);
 - (9) Proposed fencing, gates, parking areas, and signs;
 - (10) Roads for ingress to, and egress from the lands, including on-site roads, other areas to be used for movement of vehicles and a description of the proposed measures to limit dust generated by mineral removal activities and movement of vehicles;

- (11) A map showing access routes between the subject lands and the nearest (County) paved arterial or collector road;
 - (12) Areas to be used for ponding, and;
 - (13) Proposed method of managing overburden (e.g., seeding, grading, erosion and sedimentation control, etc.
- c. A narrative description and explanation of the proposed extraction operations and activities, including:
 - (1) The date of commencement.
 - (2) Proposed hours and days of operation.
 - (3) Estimate of type and quantity of mineral materials to be removed.
 - (4) Description of extraction and processing methods, including proposed equipment and the noise rating of each type thereof.
 - (5) A summary of the procedures and practices that will be used to ensure compliance with the conditions of this subsection.
 - (6) Description of size of trucks and daily volume of traffic entering and leaving the site, and on-site circulation pattern.
- d. A site rehabilitation plan including the following:
 - (1) A written description of planned site rehabilitation and enduse(s), including potential methods of accomplishment.
 - (2) A phasing plan, if the excavation of the site is to be accomplished in phases. This plan shall indicate the area and extent of each phase and the approximate timing of each phase.
 - (3) A plan showing:
 - (a) Final grades of the lands as rehabilitated, at contour intervals not exceeding five (5) feet;
 - (b) Water courses, ponds, or lakes, if any;
 - (c) Landscaping and plantings;
 - (d) Areas of cut and fill; and

- (e) All of the components of the proposed end-use(s);
- (4) A description of the proposed methods or features that will ensure that the end-use is feasible, and can comply with all applicable requirements of this Ordinance.
- (5) Each site rehabilitation plan shall be reviewed by the Planning Commission and shall comply with all of the following standards and requirements:
 - (a) Topsoil shall be replaced on the site to a depth of not less than six (6) inches, except where the end-use activities or features do not involve the planting of lawns or growing of vegetation.
 - (b) Slopes shall be graded and stabilized to such extent as will accommodate the proposed end-use.
 - (c) The plan shall indicate the phasing of site rehabilitation, if the same is to take place in phases, and if so, topsoil shall be replaced and slopes shall be graded and stabilized before mineral removal operations or activities are commenced in another area of the site.
 - (d) Final slopes shall have a ratio of not more than one (1) foot of elevation to three (3) feet of horizontal distance.
 - (e) Plantings of grass, shrubs, trees, and other vegetation shall be made so as to maximize erosion protection, screen less attractive areas of end-uses, and enhance the beauty of the site as rehabilitated.
- 2. No machinery shall be erected or maintained within one hundred (100) feet of any exterior property line. No cut or excavation shall be made closer than fifty (50) feet to any road right-of-way line or property line in order to ensure subterranean support to surrounding property. The Planning Commission may require greater distances for the location of machinery, storage or parking of equipment, or limits of excavation where the site is located within two hundred (200) feet of any Residential District.
- 3. No business or industrial buildings or structures of a permanent nature shall be erected, except when such building is a permitted use within the district in which the excavation pit is located.

4. The Planning Commission shall request that the Muskegon County Road Commission recommend routes for truck movement to and from the site in order to minimize the wear on public roads, and to prevent hazards and damage to properties in the community. Access roads within the area of operation shall be provided with a dustless surface and the entry road shall be hard surfaced for a distance established by the Planning Commission to minimize dust, mud, and debris being carried onto the public road.
5. Proper measures shall be taken to minimize the nuisance of noise and flying dust or rock. Such measures may include, when considered necessary, limitations upon the practice of stockpiling excavated material upon the site.
6. Mineral resource extraction operations shall not operate prior to 7:00 a.m. or after 7:00 p.m., Monday through Friday. Saturday operations shall not operate prior to 8:00 a.m. or after 3:00 p.m. Operations shall not operate any time on Sundays or holidays.
7. During activities and operations for the removal of mineral material, no mineral material or other excavated materials shall be left during weekends or overnight in such condition or manner as to constitute a danger to children or others who may enter the removal areas. All banks of excavated material shall be graded to slopes having a vertical to horizontal ratio of not greater than one (1) foot of elevation for each three (3) feet of horizontal distance, after the cessation of daily operations. However, the Planning Commission may permit some lesser daily grading requirement if the applicant provides a substantially constructed and maintained welded wire fence, or fence of equally substantial material. Such fence shall be at least four (4) feet in height, so located that any slopes steeper than one (1) foot of elevation for each two (2) feet of horizontal distance cannot inadvertently be approached by any persons who may enter the removal area.
8. The Planning Commission may require compliance with such other conditions as may be necessary to ensure compliance with the terms of this subsection. Such conditions may include, though need not be limited to, weed control, erosion and sedimentation control, fencing and visual screening including berms, requirements for groundwater monitoring wells, preservation of trees and other vegetation, and fuel loading and storage requirements.
9. An applicant for a permit shall submit a performance bond or other financial security in accordance with the requirements of this

Ordinance, naming White River Township as the insured party, and conditioned upon the timely and faithful performance by the applicant of all of the terms and conditions of the permit. The bond or other financial security shall have such other terms and shall be in such amount as is recommended by the Zoning Administrator as reasonably necessary to ensure compliance with all of the terms and conditions of this subsection and the permit.

- a. The performance bond or other financial security shall not be refunded, reduced, released, or transferred until the mineral removal operations and activities, land reclamation or restoration, and all other required activities have received final inspection by the Zoning Administrator.
 - b. The timely and faithful compliance with all of the provisions of the performance bond or other financial security shall be a condition of any mineral removal operations. In the absence of any such compliance with the terms of the performance bond, or if the special use is revoked, expires, or is not renewed, the Planning Commission need not approve the renewal of any permit, even if the applicant has otherwise complied with all other terms and provisions of the current permit.
10. To ensure compliance with the permit, the Zoning Administrator shall conduct periodic inspections and shall file a written annual report to the Planning Commission. The operator shall be required to pay an
- annual fee to cover the cost of inspections and additional meetings of the Planning Commission.

Z. Sale of animal feed, seed, fertilizers, and related farming products unless conducted as part of a bona fide farming operation where the operation does not require a Michigan sales tax license

1. Uses shall include, but are not limited to, grain elevators for storage, drying and sales, bulk feed and fertilizer outlets and distribution centers, seed dealership outlets and distribution centers, crop truck and cartage facilities, agricultural products, production and processing operations and auctions for livestock.
2. Minimum lot size shall be five (5) acres.
3. Minimum frontage shall be three hundred (300) feet.

4. Trucking, outside storage, loading and dock areas shall be fenced and screened, pursuant to the buffering landscaping requirements of Section 3.15.
5. No storage or loading activities shall be permitted within one hundred (100) feet of any lot line.
6. All buildings shall be set back a minimum of seventy five (75) feet from any lot line.
7. All agricultural service activities shall be located at least three hundred (300) feet from any residential district and one hundred (100) feet from the property line of an abutting residential use.
8. The lot shall be located so at least one (1) side abuts an arterial or collector (county) road and all access shall be from that road.

AA. Adult uses

1. In the development and execution of this subsection, it is recognized that there are some uses that, because of their very nature, have serious objectionable operational characteristics, particularly when several of them are concentrated under certain circumstances or when one or more of them is located in proximity to a Residential District, thereby having a deleterious effect upon the adjacent areas. Special regulation of these uses is necessary to insure that these adverse effects will not contribute to the blighting or downgrading of the surrounding neighborhood. These special regulations are itemized in this subsection. These controls are for preventing a concentration of these uses within any one area, or to prevent deterioration or blighting of a nearby residential neighborhood. These controls do not legitimize activities prohibited in other sections of the Zoning Ordinance.
2. Any sexually-oriented business use is permitted if:
 - a. The proposed use is not an accessory or incidental use and it is located within a zone district where the use may be permitted as a Special Land Use.
 - b. The use is not located within a one thousand (1,000) foot radius of a residential use or district, or regular place of worship, a public or private nursery school, preschool, kindergarten, elementary or secondary school, public park or a licensed child care center.

- c. The use shall not be within a five hundred (500) foot radius of another such use. Separation distances between Adult uses may be waived by the Planning Commission if the following findings are made:
 - (1) That the proposed use will not be contrary to the public interest or injurious to nearby properties and that the spirit and intent of this subsection will be observed.
 - (2) That the proposed use will not enlarge or encourage the development of a blighted or deteriorating area in its immediate surroundings.
 - (3) That the establishment of a regulated use, or an additional regulated use, in the area will not be contrary to any program of neighborhood conservation.
 - (4) That all applicable state laws and local ordinances will be observed.
 - (5) Prior to the granting of any waiver as herein provided, the Planning Commission may impose any conditions or limitations upon the establishment, location, construction, maintenance, or operation of the regulated use as may be, in its judgment, necessary for the protection of the public interest. Evidence and guarantees may be required such that the conditions stipulated in connection with the use will be fulfilled.
- d. For purposes of this subsection, the separation between a Adult uses and a use listed in this subsection shall be measured from the Adult uses to the boundary line of the use or district in which the other use is located and the separation distance between a Adult uses and another Adult uses shall be measured from the Adult uses' lot line to the other Adult uses' lot line.
- e. If any portion of the building or structure in which the Adult uses is located fails to meet the separation distance requirements of this subsection, then the entire building or structure shall be ineligible for a Adult uses use.
- f. The presence or existence of a political subdivision boundary shall be irrelevant for the purposes of calculating and applying the separation distance requirements of this subsection.

- g. Adult uses lawfully operating is not rendered a nonconforming use by the location, subsequent to the location or grant or renewal of the Adult uses, of a regular place of worship, a public or private nursery school, preschool, kindergarten, elementary or secondary school, a public park, a licensed child care center, any entertainment business that is oriented primarily toward children or family entertainment, or another Adult uses.
3. Parking spaces shall be provided at the ratio of one (1) space per person permitted by the maximum occupancy load established by fire, health, or building codes.
4. Parking shall be provided in front of the building and shall not be screened.
5. No Adult uses shall remain open at any time between the hours of 11:00 p.m. and 10:00 a.m. and no such use shall be open on Sundays.
6. No alcohol shall be served at any Adult uses.
7. No Adult uses use shall permit any person under the age of eighteen (18) years to enter the premises. Signs shall be conspicuously posted noting that minors are not allowed.
8. All parking areas and the building shall be well lit to ensure the safety and security of patrons. These areas shall remain lighted for one (1) hour after closing each night.
9. The activities to be conducted or the materials to be distributed shall not be in violation of any applicable statute, code or ordinance.

BB. Sawmills

1. Minimum lot size shall be ten (10) acres.
2. Sawmill equipment shall be located a minimum of fifty (50) feet from an adjoining property line.
3. Where adjoining a Residential District or use, a buffer zone that complies with the requirements of Section 3.15 erected along any common lot line.

CC. Schools, churches, libraries, parks, playground and community center buildings

1. Such uses shall require a minimum lot size of ten (10) acres, except for parks and playgrounds, which shall meet the minimum lot requirement of the District in which they are located.
2. The principal and accessory buildings and structures shall not be located within fifty (50) feet of any residential use or district.
3. Minimum lot size for institutions shall be two (2) acres; plus an additional fifteen thousand (15,000) square feet for each one hundred (100) seating capacity or fraction thereof.
4. Institutions shall have direct access to a paved county primary road.
5. The main and accessory buildings and structures shall not be located within fifty (50) feet of the property line of any residential use or district.
6. All stadium and all other exterior sports arena luminaries used for the purpose of illumination of the playing area are extinguished by 10:00 p.m. or immediately after the conclusion of the final event of the day. The remainder of the facility lighting, except for reasons of security, is extinguished at 10:00 p.m. or within one hour after the event, whichever is later, and remains extinguished until one hour prior to the commencement of the next event.

DD. Shooting, rifle, and handgun ranges

1. Minimum lot area shall be forty (40) acres.
2. Minimum setback of two hundred and fifty (250) feet from all lot lines shall be established where no shooting activities shall take place.
3. Hours of operation shall not begin before 9:00 a.m. nor end later than 9:00 p.m. for outdoor ranges.
4. The use shall not be located any closer than one quarter (1/4) mile from any Residential District, residential use, church or school.
5. Rifle and pistol ranges shall have sufficient backstop to prevent further range of a bullet or an errant shot.

EE. State licensed residential group home care facilities

1. Nonresidential parking setback and screening provisions shall apply.

2. The facility shall be at least one thousand five hundred (1,500) feet from any other similar facility.

FF. Theaters or similar places of public assembly

1. The establishment shall be located on property with direct access to a public road.
2. Minimum lot size shall be two (2) acres.
3. Where adjoining a Residential District or use, a buffer zone that complies with the requirements of Section 3.15 erected along any common lot line.

GG. Vehicle body and repair shops

1. No building or structure shall be located within one hundred (100) feet of any Residential Use or district.
2. Minimum lot area shall be one (1) acre and minimum lot width shall be two hundred (200) feet.
3. All equipment and activities associated with vehicle repair operations, except those in incidental use, such as air hoses, shall be kept within an enclosed building.
4. No more than three (3) inoperable vehicles shall be permitted on site. Inoperative vehicles left on the site shall be stored in an enclosed building within forty-eight (48) hours or in an area screened by an opaque fence not less than six (6) feet in height. Such fence shall be continuously maintained in good condition.
5. Storage of vehicle components and parts, trash, supplies, or equipment outside of a building is prohibited unless appropriately screened.
6. Where adjoining a Residential District or use, a buffer zone that complies with the requirements of Section 3.15 erected along any common lot line.

HH. Vehicle service stations

1. Minimum lot area shall be one (1) acre and minimum lot width shall be two hundred (200) feet.
2. Pump islands shall be a minimum of forty (40) feet from any public right-of-way or lot line.

3. If retail sales of convenience goods are conducted on the premises, parking for such uses shall be computed and provided separately for that use without impeding pump traffic.
4. Canopy roofs shall be permitted to encroach into any required yard, provided that a minimum setback of twenty (20) feet from adjacent property lines is maintained and further provided that the fascia of the canopy is a minimum of fifteen (15) feet above the average grade.
5. Where adjoining a Residential District or use, a buffer zone that complies with the requirements of Section 3.15 erected along any common lot line.
6. The Planning Commission may establish reasonable hours of operation where it is determined that the proposed use may generate noise, glare, or similar disturbances upon nearby residents.

II. Vehicle wash establishments, either self-serve or automatic

1. Minimum lot area shall be one (1) acre and minimum lot width shall be two hundred (200) feet.
2. Sufficient stacking capacity for the drive through portion of the vehicular wash establishment shall be provided to ensure that traffic does not extend into the public right-of-way. A minimum of ten (10) stacking spaces for an automatic wash facility shall be provided. For self-service establishments, each stall shall have at least two (2) stacking spaces at its entrance and one (1) stacking space at its exit.
3. Vacuuming activities, if outdoors, shall be at least one hundred (100) feet from any Residential District or use.
4. Wash bays for self-service establishments shall be located at least fifty (50) feet from any Residential District or use.
5. The lot area used for parking shall be provided with a paved surface and shall be drained so as to dispose of all surface water.
6. Where adjoining a Residential District or use, a buffer zone that complies with the requirements of Section 3.15 erected along any common lot line.
7. The Planning Commission may establish reasonable hours of operation where it is determined that the proposed use may generate noise, glare, or similar disturbances upon nearby residents.

JJ. Veterinary clinics and hospitals

Any buildings which house animals, and any animal runs or exercise areas shall be located at least one hundred (100) feet from a property line and shall be screened in accordance with Section 3.15.

KK. Wireless communication towers over 75 feet

1. The applicant shall provide evidence that there is no reasonable or suitable alternative for collocation of antennas on an existing communication tower or building within the service area of the proposed tower.
2. The applicant shall provide an inventory of its existing towers, antennas, or sites approved for towers or antennas that are either within the township or within one (1) mile of the border thereof, including specific information about the location, height and design of each tower. The Planning Commission may share such information with other applicants applying for approval under this ordinance or other organizations seeking to locate antennas within the township, provided, however that the Planning Commission is not, by sharing such information, in any way representing or warranting that such sites are available or suitable.
3. All towers and antennas shall be located so that they do not interfere with reception in nearby residential areas. In the event a communication tower causes interference, the communication company shall take all steps necessary to correct and eliminate such interference.
4. No new communication tower or antenna shall be located within a three (3) mile radius of an existing communication tower or antenna. This requirement may be waived by the Planning Commission if one (1) of the following conditions are met:
 - a. The proposed communication facility is located on an existing communication tower.
 - b. The communication tower is to serve solely a governmental or educational institution.
 - c. No communication tower or antenna shall be located closer than five hundred (500) feet from the boundary of an existing residential use or district.

5. No communication tower and antenna shall be greater than two hundred (200) feet in height, except if in the opinion of the Planning Commission, the applicant has sufficiently demonstrated that a proposed communication tower in excess of two hundred (200) feet will reduce the total number of potential communication towers in the area.
6. Communication towers shall be set back from all property lines a minimum of one and one half (1-1/2) times the tower height.
7. The applicant shall provide verification with a certified sealed print that the antenna and the communication tower have been reviewed and approved by a professional engineer and that the proposed installation is in compliance with all the applicable codes.
8. The applicant shall provide the legal description of the parent parcel and any leased portion thereof.
9. A security fence at least six (6) feet in height shall be constructed around the tower and any other related apparatuses (*i.e.*, ground antennas, satellite dishes, and accessory structures).
10. The Planning Commission may require a buffer zone in compliance with Section 3.15 of the ordinance.
11. All communication towers shall be equipped with an anti climbing device to prevent unauthorized access.
12. No signs shall be permitted on site, except for warning, or other cautionary signs, which shall not exceed two (2) square feet in area.
13. All new communication towers and antennas shall either maintain a galvanized steel finish or, subject to any applicable standards of the Federal Aviation Administration, be painted a neutral color so as to reduce visual obtrusiveness.
14. The collocation of an antenna shall not require an Additional Special Land Use permit and may be approved by the Zoning Administrator.
15. The applicant shall submit details of communication tower lighting approved by the Federal Aviation Administration. All lights shall be restricted to the extent that is required for compliance with Federal Aviation Administration regulations and on site security.
16. All communication tower permits issued by the Township shall be contingent upon any necessary approval of the Federal Aviation Administration, Federal Communication Commission, State Bureau of

Aeronautics – Tall Structures Act and any other applicable state or federal acts.

17. The applicant shall submit a report or letter from the Federal Aviation Administration that the proposed tower complies with all airport safety requirements for all public and private airports in or within four (4) miles of the township.
18. Communication towers and antennas shall be regulated and permitted pursuant to this Section and shall not be regulated or permitted as essential services, public utilities, or private utilities.
19. Any communication tower that is abandoned or its use discontinued for a period of twelve (12) months shall be required to be removed immediately by the owner and/or lessee. Abandonment or discontinuance shall be determined when any of the following conditions are evident: disconnection of electricity; property, buildings, or grounds that have fallen into disrepair or the removal of all antennas or support structures.
20. The application shall include a description of security to be posed at the time of receiving a building permit for the communication tower to ensure removal of the communication tower when it has been abandoned or is no longer needed.

LL. Wind energy conversion systems (WECS)

1. Purpose. The purpose of this subsection is to establish standards and procedures by which the installation and operation of a WECS shall be governed within the Township as a special use.
2. Definitions.
 - a. Interconnected WECS. A WECS which is electrically connected to the local electrical power utility system and could feed power back into the local electrical power utility system.
 - b. Survival Wind Speed. The maximum wind speed, as designated by the WECS manufacturer, at which a WECS in unattended operation (not necessarily producing power) is designed to survive without damage to any structural equipment or loss of the ability to function normally.
 - c. WECS Height. The distance between the ground (at normal grade) and the highest point of the WECS, as measured from the ground

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

- d. Wind Energy Conversion System (WECS) shall mean a combination of:
 - (1) A surface area (typically a blade, rotor, or similar device), either variable or fixed, for utilizing the wind for electrical powers; and
 - (2) A shaft, gearing, belt, or coupling utilized to convert the rotation of the surface area into a form suitable for driving a generator, alternator, or other electricity-producing device; and
 - (3) The generator, alternator, or other device to convert the mechanical energy of the surface area into electrical energy; and
 - (4) The tower, pylon, or other structure upon which any, all, or some combination of the above are mounted.
 - (5) Other components not listed above but associated with the normal construction, operation, and maintenance of a WECS.
- e. Wind Farm. Clusters of 2 or more WECS placed upon a lot or parcel with the intent to sell or provide electricity to a site or location other than the premises upon which the WECS are located. Said WECS may or may not be owned by the owner of the property upon which the WECS is placed.
- f. Single WECS for Commercial Purposes. A single WECS placed upon a lot or parcel with the intent to sell or provide electricity to a site or location other than the premises upon which the structure is located. Said WECS may or may not be owned by the owner of the property upon which the WECS is placed.
- g. WECS Testing Facility or Testing Facility. A structure and equipment used to determine the potential for the placement of a WECS.
- h. Applicant. The person, firm, corporation, company, limited liability corporation or other entity which applies for Township approval

under this section, as well as the applicant's successor(s), assign(s) and/or transferee(s) as to any approved WECS or Testing Facility. An applicant must have the legal authority to represent and bind the landowner or lessee who will construct, own, and operate the WECS or Testing Facility. The duties and obligations regarding a zoning approval for any approved WECS or Testing Facility shall be with the owner of the WECS or Testing Facility, and jointly and severally with the owner and operator or lessee of the WECS or Testing Facility if different than the owner.

3. Applicability:

- a. WECS, Wind Farms, Single WECS for Commercial Purposes, and WECS Testing Facilities. Wind energy conversion systems such as a WECS, wind farm, single WECS for commercial purposes, and WECS Testing Facilities associated with the commercial application of a WECS may be allowed as a Special Use within the AR Agriculture and Recreational zoning district, subject to the regulations and requirements of this section and the review procedures and standards/criteria of Article X of this Zoning Ordinance.
- b. Single WECS for On-site Service Only. Single WECS applications of wind energy conversion system, including WECS Testing Facilities, to service the energy needs of only the property where the structure is located may be approved in any zoning district as a Special Use, provided the property upon which the system is to be located is at least three and one-half (3-1/2) acres in size and subject to the review and approval procedures and standards/criteria of Article X of this Ordinance, as well as all of the following:
 - (1) The tower shall not exceed a height of 80 feet.
 - (2) The blade diameter (tip to tip) shall not exceed 100 feet.
 - (3) The height of the overall WECS (with the blade in the vertical position) shall not exceed 130 feet above ground level (at normal grade).
 - (4) The distance of the structure from all property lines shall be at least two (2) times the WECS height.

Except for the requirements contained above in this subsection (c)(2), single WECS for on-site service only shall not be subject to the other requirements of Section 10.11A.

4. Site Plan Drawing. All applications for a WECS or WECS Testing Facility special use approval shall be accompanied by a detailed site plan drawn to scale and dimensioned, displaying all of the following information:
 - a. All requirements for a site plan contained in Articles X and XI shall also be met.
 - b. All lot lines and dimensions, including a legal description.
 - c. Location and height of all proposed buildings, structures, electrical lines, towers, guy wires, guy wire anchors, security fencing, and other above ground structures associated with the WECS.
 - d. Locations and height of all adjacent buildings, structures, and above ground utilities located within 300 feet of the exterior boundaries of the lot or parcel where the proposed WECS and/or Testing Facility will be located. Specific distances to other on-site buildings, structures, and utilities shall also be provided. The location of all existing and proposed overhead and underground electrical transmission or distribution lines shall be shown, whether to be utilized or not with the WECS or Testing Facility, located on the lot or parcel involved, as well as within 1,000 feet of the boundaries of such parcel or lot.
 - e. Existing and proposed setbacks for the WECS from all structures located on the property where the WECS will be located.
 - f. Elevation of the premises accurately depicting the proposed WECS location and its relationship to the elevation of all existing and proposed structures within 300 feet of the proposed WECS.
 - g. Access driveway to the WECS and the Testing Facility together with a detailed narrative regarding dimensions, composition, and maintenance of the proposed driveway. The Township shall require the construction of a private road to serve a WECS or Testing Facility if it is determined by the Township Board that said road is necessary to protect the public health, safety, or welfare or to offer an adequate means by which the Township or other governmental agency may readily access the site in the event of an emergency. All private roads shall be constructed to Township private road standards.
 - h. Planned security measures to prevent unauthorized trespass and access.

- i. WECS and Testing Facility Maintenance Programs-The applicant shall provide to the Township a written description of the maintenance program to be used to maintain the WECS and Testing Facility, including removal when determined to be obsolete or abandoned. The description shall include maintenance schedules, the types of maintenance to be performed, and removal procedures and schedules should the WECS or Testing Facility become obsolete or abandoned.
 - j. Additional detail(s) and information as required by the Special Use requirements of this Ordinance, or as requested by the Planning Commission or Township Board.
- 5. Compliance with the Township Building Code. A copy of the manufacturer's installation instructions and blueprints shall be provided to the Township. Included as part of or as an attachment to the installation instructions shall be standard drawings of the structural components of the WECS and support structures, including base and footings provided along with engineering data and calculations to demonstrate compliance with the structural design provisions of the Building Code as adopted by the Township. Drawings and engineering calculations shall be certified by a registered engineer licensed in the State of Michigan.
- 6. Compliance with the Electrical Code. WECS and Testing Facility electrical equipment and connections shall be designed and installed in full compliance with the Electrical Code as adopted by the Township. A copy of manufacturer installation instructions and blueprints shall be provided to the Township.
- 7. Design Standards.
 - a. Height. The permitted maximum total height of a WECS (*i.e.*, WECS height) shall be 400 feet including the blade in vertical position.
 - b. State and federal regulations may require a lesser height.
 - c. As a condition of approval, the Township may require a lesser height for a WECS if reasonably necessary to comply with the standards contained in subsection (h) hereof or in Article X.
 - d. A WECS shall be constructed with a tubular tower, not a lattice tower.
 - e. Height of Test Tower Facility. Unless a different height is approved by the Township Board, the WECS Testing Facility height shall be no

greater than 300 feet from the ground (*i.e.*, from normal grade to the test tower top) and shall comply with design standards.

- f. A WECS Testing Facility which is not in use for 6 months or more shall comply with subsection (l) hereof regarding abandonment.
- 8. **Setbacks.** No part of a WECS or WECS Testing Facility (including guy wire anchors) shall be located within or above any required front, side or rear yard setback. The setback for placement of a WECS or a WECS Testing Facility shall be at least 1600 feet from each property line of the property where the structure is located and at least 1600 feet from any public road right-of-way. Furthermore, no WECS or WECS Testing Facility shall be located within 1600 feet of the high water mark of Lake Michigan or White Lake.
- 9. **Rotor or Blade Clearance.** Blade arcs created by a WECS shall have a minimum of seventy-five (75) feet of clearance over and from any structure, adjoining property or tree. The minimum blade or rotor clearance above ground level shall be at least twenty (20) feet.
- 10. **Rotor or Blade Safety.** Each WECS shall be equipped with both a manual and automatic braking device capable of stopping the WECS operation in high winds within 80% of design limits of the rotor.
- 11. **Tower Access.** To prevent unauthorized climbing, WECS and Testing Facilities must comply with at least one of the following provisions:
 - a. Tower climbing apparatus shall not be located within twelve (12) feet of the ground.
 - b. A locked anti-climb device shall be installed and maintained.
 - c. A tower capable of being climbed shall be enclosed by a locked, protective fence at least ten (10) feet high with barbed wire fence.
- 12. **Signs.** Each WECS and Testing Facility shall have one sign, not to exceed two (2) square feet in area, posted at the base of the tower. The sign shall contain at least the following:
 - a. Warning high voltage.
 - b. Manufacturer's name.
 - c. Emergency numbers (list more than one number).
 - d. Emergency shutdown procedures.

- e. FAA regulated sign with precise description with latitude and longitude and shall also contain both the applicant's current telephone number and the current telephone number for the FAA's regional office having jurisdiction over White River Township.
 - f. If fenced, place signs on the fence.
- 13. Lighting. A lighting plan for each WECS and Testing Facilities shall be approved by the Township Board. Such plan must describe all lighting that will be utilized, including any lighting that may be required by the FAA. Such a plan shall include but is not limited to the planned number and location of lights, light color and whether any lights will be flashing. Strobe lights are discouraged and must be shielded from the ground if such lights are allowed by the Township Board.
 - 14. Electromagnetic Interference. Each WECS and Testing Facilities shall be designed, constructed and operated so as not to cause radio and television interference. In the event that electromagnetic interference is experienced, the applicant must provide alternate service to each individual resident or property owner affected.
 - 15. Noise Emissions. Noise emissions from the operation of a WECS and Testing Facilities shall not exceed forty-five (45) decibels on the DBA scale as measured at the nearest property line or road.
 - a. A baseline noise emission study of the proposed site and impact upon all areas within one (1) mile of the proposed WECS location must be done (at the applicant's cost) prior to any placement of a WECS and submitted to the Township. The applicant must also provide estimated noise levels to property lines at the time of a Special Use application.
 - 16. Utility Company Interconnection (Interconnected WECS). All distribution lines from the WECS to the electrical grid connection shall be located and maintained underground (both on the property where the WECS will be located and off-site). The Township Board (upon recommendation of the Planning Commission) may waive the requirement that distribution lines for the WECS which are located offsite (*i.e.*, are not located on or above the property where the WECS will be located) be located and maintained underground if the Township Board determines that to install, place, or maintain such distribution lines underground would be impractical or unreasonably expensive.
 - 17. Approval Standards. In addition to the other requirements and standards contained in this section, the Township Board (upon recommendation of the Planning Commission) shall not approve any

WECS or Testing Facilities unless it finds that all of the following standards are met:

- a. The general special use standards contained in Section 10.6 of this Ordinance; and
 - b. The WECS or Testing Facility will not pose a safety hazard or unreasonable risk of harm to the occupants of any adjoining properties or area wildlife.
18. Ornamental Wind Devices. Ornamental wind devices that are not a WECS shall be exempt from the provisions of this section, so long as they do not exceed the height limitations for permitted accessory structures (*i.e.*, those permitted as of right) within the zoning district where the ornamental wind device will be located. Such devices may also be regulated by other provisions of this Ordinance.
 19. Inspection. The Township shall have the right upon issuing any WECS and Testing Facility special land use permit to inspect the premises on which the WECS or Testing Facility is located at all reasonable times. The Township may hire a consultant to assist with any such inspections at the applicant's cost.
 20. Each WECS and Testing Facility must be kept and maintained in good repair and condition at all times. If a WECS is not maintained in operational and reasonable condition or poses a potential safety hazard, the applicant shall take expeditious action to correct the situation.
 - a. The applicant shall keep a maintenance log on each WECS which the Township can review on a monthly basis.
 21. Abandonment. Any WECS or Testing Facilities which is not used for six (6) successive months or longer shall be deemed to be abandoned and shall be promptly dismantled and removed from the property. All above and below ground materials must be removed. The ground must be restored to its original condition within 60 days of abandonment.
 22. Security. If a special use is approved pursuant to this section, the Township Board shall require security in the form of a cash deposit, surety bond, or irrevocable letter of credit (in a form, amount, time duration and with a financial institution deemed acceptable to the Township), which will be furnished by the applicant to the Township in order to ensure full compliance with this section and any conditions of approval. When determining the amount of such required security, the Township may also require an annual escalator or increase based on

the Federal Consumer Price Index (or the equivalent or its successor). Such financial guarantee shall be deposited or filed with the Township Clerk after a special use has been approved but before construction commences upon a WECS or WECS Testing Facility. At a minimum, the financial security shall be in an amount determined by the Township to be sufficient to have the WECS or Testing Facility

fully removed (and all components properly disposed of and the land returned to its original state) should such structure or structures become abandoned, dangerous or obsolete, or not in compliance with this ordinance or the special use approval. Such financial security shall be kept in full force and effect during the entire time while a WECS or WECS Testing Facility exists or is in place. Such financial security shall be irrevocable and non-cancelable (except by the written consent of both the Township and the then-owner of the WECS or WECS Testing Facility) for at least 30 years from the date of the special use approval. Failure to keep such financial security in full force and effect at all times while a WECS or WECS Testing Facility exists or is in place shall constitute a material and significant violation of a special use approval and this ordinance, and will subject the applicant to all available remedies to the Township, including possible enforcement action and revocation of the special use approval.

23. Road repair. Any damages to a public road located within the Township resulting from the construction, maintenance, or operation of a WECS or Testing Facility shall be repaired at the applicant's expense.
24. Liability. The applicant shall insure each WECS at all times for at least \$2,000,000 for liability to cover the applicant, Township and land owner.
25. Color. A WECS shall be painted a non-obtrusive (light environmental color such as beige or gray) color that is non-reflective. The wind turbine base and blades shall be of a color consistent with all other turbines in the area. No striping of color or advertisement shall be visible on the blades or tower.
26. Strobe effect. All efforts shall be made not to affect any resident with any strobe effect.
27. Under no circumstances shall a WECS or Testing Facility produce vibrations or wind currents humanly perceptible beyond the property boundaries of the lot or parcel on which the WECS or Testing Facility is located.
28. The applicant shall be responsible for compensation to persons damaged due to any stray voltage caused by a WECS.

29. At the Township's request, the applicant shall fund an environmental assessment or impact study and/or other relevant report(s) or studies (including, but not limited to, assessing the potential impact on endangered species, eagles, birds, and/or other wildlife) as required by the Township for review by the Township regarding the area or surrounding areas where the WECS will be placed. Each such study or report shall be provided to the Township prior to the time when the Planning Commission makes its formal recommendation regarding the special use request to the Township Board.
30. The applicant shall show proof of a minimum wind rating of 3 from the proposed WECS when applying for a Special Use Permit.
31. At the Township's request, the applicant shall fund a financial impact study for review by the Township of the area affected by the WECS. Such study or report shall be provided to the Township prior to the time when the Planning Commission makes its formal recommendation regarding the special use request to the Township Board.
32. An escrow account shall be set up when the applicant applies for a Special Use Permit for a WECS or WECS Testing Facility. The monetary amount filed by the applicant with the Township shall be in an amount estimated by the Township to cover all costs and expenses associated with the special use zoning review and approval process, which costs can include, but are not limited to, fees of the Township Attorney, Township Planner and Township Engineer, as well as any reports or studies which the Township anticipates it may have done related to the zoning review process for the particular application. Such escrow amount shall be in addition to regularly established fees. At any point during the zoning review process, the Township may require that the applicant place additional monies into escrow with the Township should the existing escrow amount filed by the applicant prove insufficient. If the escrow account needs replenishing and the applicant refuses to do so promptly, the zoning review and approval process shall cease until and unless the applicant makes the required escrow deposit. Any applicable zoning escrow resolutions or other ordinances adopted by the Township shall also be applicable.
33. Reasonable conditions. In addition to the requirements of this section, the Township Board may impose additional reasonable conditions on the approval of a WECS or WECS Testing Facilities as a special use.

34. Each WECS and WECS Testing Facility shall also comply with all applicable federal, state of Michigan, and county requirements, in addition to Township ordinances.

CHAPTER 17 PARKING AND LOADING

SECTION 17.01 SCOPE

In all Zoning Districts, off-street parking facilities for the storage and parking of selfpropelled motor vehicles for the use of occupants, employees and patrons of the buildings hereafter erected, altered or extended after the effective date of this Ordinance, shall be provided as herein prescribed. These spaces shall be maintained and shall not be encroached upon so long as the main building or structure remains, unless an equivalent number of spaces are provided elsewhere in conformance with this Ordinance.

SECTION 17.02 LOCATION OF PARKING

The off-street parking required by this Chapter shall be provided in accordance with the following requirements.

- A. Single and Two Family Dwellings: Off-street parking facilities shall be located on the same lot or plot of ground as the building they are intended to serve, but shall not be considered a parking lot under the provisions of this Chapter.
- B. Multiple Family Dwellings: Off-street parking facilities shall be located on the same lot or plot of ground as the dwellings they are intended to serve, and shall consist of a parking lot as defined in this Chapter. In no event shall any uncovered parking space for a multiple family building be located nearer than ten (10) feet to any main building.
- C. Manufactured Housing Communities: Off-street parking may be located on each site or in parking lots conveniently located and readily accessible to each site. Each parking space must meet the minimum requirements of Section 17.03G.
- D. Other Land Uses: Off-street parking may be located on each site or in parking lots within three hundred (300) feet of and readily accessible to each site. E. Use of Yards:
 - 1. Residential Districts:
 - a. Parking shall be permitted within any required yard setback, provided that parking within the required front yard shall only be on a driveway that provides access to a garage, or in absence of a garage, to the side or rear yard.
 - b. Parking and storage of recreational vehicles on required setbacks in the Residential Districts shall conform to Section 3.30.
 - 2. Nonresidential Districts:

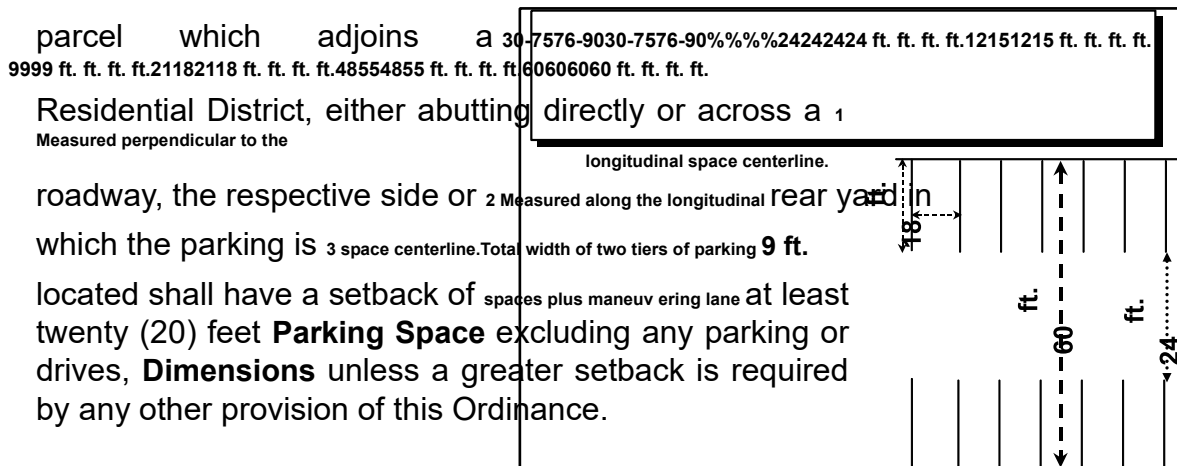
- a. All parking spaces shall be set back a minimum of ten (10) feet from the front lot line.
- b. All parking spaces shall be set back five (5) feet from any rear or side lot line abutting a Nonresidential District and ten (10) feet from any side or rear lot line abutting a Residential District.

SECTION 17.03 PARKING LOT REQUIREMENTS

- A. All parking facilities, access driveways, and commercial storage areas (excluding those for single and two family dwellings outside manufactured home parks) shall be hard surfaced with a pavement having an asphalt or concrete binder, shall be graded and drained so as to dispose of surface water which might accumulate within or upon the area, and shall be completely constructed prior to a Certificate of Occupancy being issued.
- B. In all Districts, the pavement surfacing of the portion of any driveway between the right-of-way and the edge of the roadway surface shall be hard surfaced if the roadway is hard surfaced.
- C. All illumination for all parking lots in the C District and the industrial Districts shall be deflected away from adjacent residential areas and shall be installed to allow the reduction of the amount of light on other than normal parking hours each day. The source of illumination in all parking lots shall not exceed twenty-five (25) feet in height, except that lighting in a parking lot of portion of which is within two hundred (200) feet of a Residential District or use shall not be higher than fifteen (15) feet in height.

- D. When a required nonresidential parking lot is situated on a parcel which adjoins a residential district, either abutting directly or across a roadway, the respective side or rear yard in which the parking is located shall have a setback of spaces plus maneuvering lane at least twenty (20) feet **Parking Space** excluding any parking or drives, **Dimensions** unless a greater setback is required by any other provision of this Ordinance.

parking lot is situated on a parcel which adjoins a residential district, either abutting directly or across a roadway, the respective side or rear yard in which the parking is located shall have a setback of spaces plus maneuvering lane at least twenty (20) feet **Parking Space** excluding any parking or drives, **Dimensions** unless a greater setback is required by any other provision of this Ordinance.



- E. Required nonresidential parking lots abutting a Residential District or use shall be effectively screened from neighboring Residential Districts and uses by a decorative fence or wall with a maximum height of six (6) feet, or a landscaped equivalent; provided that this screening shall comply with all clear vision requirements as stated in Section 3.16.

Adequate ingress and egress to the parking lot, by means of limited and clearly defined drives, shall be provided for all vehicles. Drives shall be located so as to minimize traffic conflicts with adjoining uses and roadways.

- F. Wheel stops shall be provided and so located as to prevent any vehicle from projecting over the lot or setback lines. These devices shall be securely anchored into the parking lot to ensure that they remain stationary.
- G. Except as may otherwise be required by this Ordinance, the minimum parking space dimensions shall be nine (9) feet in width, eighteen (18) feet in length, and one hundred and sixty-two (162) square feet in area.

SECTION 17.04 PARKING LOT PLANS

- A. The construction of any parking lot shall be in accordance with the requirements of this Ordinance and the construction shall be completed and approved by the Zoning administrator before actual use of the property as a parking lot and before a Certificate of Occupancy is issued.
- B. Plans for the development of any parking lot must be submitted to the Zoning administrator, prepared at a scale of not less than one (1) inch equals fifty (50) feet and indicating existing and proposed grades, drainage, pipe sizes, dimensions of typical parking spaces, type of curbing, drive and aisle dimensions, lighting, adjacent main buildings, sidewalks, landscaping, surfacing and base materials to be used, and the layout of the proposed parking lot. The plans are to be prepared in a presentable form by person or persons competent in this work and shall conform to the provisions of this Chapter.

SECTION 17.05 PARKING RESTRICTIONS

- A. In any District, it shall be unlawful to use required off-street parking areas for the storage or parking of vehicles in excess of twenty-four (24) hours, except as may be permitted for an allowed commercial use, such as vehicle sales lots.
- B. It shall be unlawful for any person to park or store any motor vehicle without the express written consent of the owner, holder, occupant, lessee, agent, or trustee of that property. In no case shall vehicles be parked in any required off-street parking lot for the sole purpose of displaying a vehicle for sale, except in approved and licensed vehicle sales lots.

- C. Open storage or parking, either day or night, thereon of trucks (over one (1) ton), semi-trucks and trailers, manufactured homes, construction equipment, and/or any other similar equipment or machinery used for commercial purposes shall only be permitted on parcels of two (2) acres or more in a Residential District. The following shall be exempt from this requirement:
1. The parking of a vehicle specifically for loading or service to the residence for a period not exceeding twenty-four (24) hours.
 2. Machinery and equipment used for a farm; and
 3. Equipment necessary to be parked overnight on a lot, parcel or tract of land where construction is actively pursued.
- D. No vehicle parking, storage, or display shall be permitted within any road right-ofway. On-street parking is permitted in locations specifically designated by public authority for on-street parking. On-street parking spaces shall not be counted toward the required parking for any use.

SECTION 17.06 OFF-STREET PARKING REQUIREMENTS

- A. Required off-street parking spaces are noted in the table below for the uses listed. For those uses not specifically mentioned, the requirements for off-street parking shall be in accord with a use which the Zoning Administrator considers similar in type.
- B. When units of measurement determining the number of required off-street parking spaces result in the requirement of a fractional space that fraction shall require one (1) parking space.

USE	PARKING SPACE PER UNIT OF MEASUREMENT
Residential	
Single family dwelling	2
Two family dwellings	2 for each dwelling unit
Multiple family dwellings	2 for each dwelling unit, plus 1 additional space for each 4 units
Institutional	
Group day care homes and state licensed residential group home care facilities	1 space for each 4 clients
Places of religious worship, theaters, assembly areas, auditoriums, gymnasiums	1 space for each 4 seats or each 8 feet of pew length or 1 space for each 3 persons allowed within the maximum occupancy load established by any applicable codes or ordinances, whichever is greater

Private schools, elementary and middle	2 spaces for each 3 employees, plus amount required for auditorium or gymnasium seating
Private schools, secondary, trade, industrial, and institutions of higher learning	1 space for each 8 students, plus 1-1/2 spaces for each classroom, plus amount required for auditorium or gymnasium seating

Commercial UFA = usable floor area GFA = Gross Floor Area	
Vehicle wash establishments (self service or automatic)	1 space for each 5 stalls. Three stacking spaces shall be provided at each wash bay; 1 stacking space shall be provided at each vacuum cleaner.
Beauty/barber shop	3 spaces for each chair
Bowling alleys	4 spaces for each bowling lane plus required spaces for each accessory use
Assembly halls without fixed seats	1 space for each 3 persons allowed within the maximum occupancy load established by any applicable codes or ordinances
Restaurants - without drive-through facilities	1 space for each 100 sq. ft. UFA or 1 space for each 2 persons allowed within the maximum occupancy load established by any applicable codes or ordinances, whichever is greater
Restaurants with drive-through facilities	1 space for each 100 sq. ft. of UFA or 1 space for each 1-1/2 persons allowed within the maximum occupancy load established by any applicable codes or ordinances, whichever is greater
Commercial	
Vehicle service stations	1 space for each service stall, plus 1 space for each pump island
Personal service establishments not otherwise specified	1 space for each 50 sq. ft. UFA
Furniture, appliance and household goods retail sales	1 space for each 1,000 sq. ft. UFA
Funeral homes and mortuary establishments	1 space for each 50 sq. ft. UFA
Open air businesses	1 space for each 200 sq. ft. of indoor UFA plus 1 space for each 1,000 sq. ft. of outdoor display area
Retail stores not otherwise specified	1 space for each 200 sq. ft. UFA
Hotels and motels	1 space for each guest room, plus required spaces for any accessory uses
Video rental stores	1 space for each 100 sq. ft. UFA

Offices	
Banks, credit unions, savings and loan associations and other similar uses	1 space for each 150 sq. ft. UFA plus 3 spaces for each non-drive through automatic teller machine. For each drive through ATM, 3 stacking spaces shall be provided.
Offices not otherwise specified	1 space for each 300 sq. ft. UFA
Medical and dental offices and clinics	1 space for each 75 sq. ft. of waiting room area plus 1 space for each examining room, dental chair, or similar use area
USE	PARKING SPACE PER UNIT OF MEASUREMENT
Industrial	
Manufacturing, processing, and research establishments and Industrial uses not otherwise specified	1 space for each 1,000 sq. ft. GFA plus those spaces required for offices located on the premises
Warehouses and wholesale establishments	1 space for each 2,000 sq. ft. GFA plus those spaces required for offices located on the premises

SECTION 17.07 OFF-STREET LOADING REQUIREMENTS

- A. Adequate space for standing, loading and unloading shall be provided and maintained on the same premises with every building or structure involving the receipt or distribution of vehicles, materials or merchandise. This space shall be placed so as to avoid undue interference with public use of dedicated rights-ofway and parking areas.
- B. In the C District all loading spaces shall be located in the rear yard in the ratio of at least ten (10) square feet per front foot of building and shall be computed separately from off-street parking requirements.
- C. Loading spaces for nonresidential uses in Residential Districts shall be located in the rear yard in the ratio of at least five (5) square feet per front foot of building and shall be computed separately from off-street parking requirements.
- D. In the industrial Districts at least one (1) loading space shall be provided per use. All loading spaces shall be at least ten (10) feet by fifty (50) feet, or a minimum of five hundred (500) square feet in area. A minimum fourteen (14) foot clearance height shall be provided.
- E. Loading spaces shall only be permitted off-street and in the rear yard or interior side yard.
- F. All dedicated loading spaces shall be provided with a pavement having an asphalt or concrete binder so as to provide a permanent, durable and dustless service.

CHAPTER 18 SIGNS

SECTION 18.01 DESCRIPTION AND PURPOSE

These provisions are intended to regulate the size, number, location, and manner of display of signs in the township, consistent with the following purposes:

- A. To protect the safety and welfare of township residents; to conserve and enhance the character of the township; and to promote the economic viability of commercial and other areas by minimizing visual clutter.
- B. To prevent traffic hazards and pedestrian accidents caused by signs which obstruct vision or are distracting or confusing.
- C. To promote uniformity in the size, number, and placement of signs within zoning districts.
- D. To promote the identification of establishments and premises in the township.

SECTION 18.02 DEFINITIONS

For the purposes of the provisions of this Chapter and this Ordinance related to signs, the following words and phrases are defined as follows:

- A. **Billboard:** A sign which advertises or designates an establishment, service, merchandise, use, entertainment, activity, produce or message which is not conducted, sold, produced, manufactured or furnished upon the parcel or lot where the sign is located.
- B. **Construction Sign:** A sign that identifies the owners, contractors, architects, and/or engineers of a building(s) or development project under construction.
- C. **Commercial Establishment:** A business operating independently of any other business located in a freestanding building; in a group of stores or similar establishments that are located side-by-side in a single building, sometimes called a strip mall, as a business completely separated from other businesses by walls from the ground up and separate entrances.
- D. **Community Special Event Sign:** A portable sign erected for a limited time for the purpose of calling attention to special events of interest to the general public sponsored by governmental agencies, schools, or other nonprofit groups whose purpose is of a public, charitable, philanthropic, religious or benevolent nature.
- E. **Directional Sign:** A sign which gives directions, instruction, or information relating to location of buildings, designated routes for pedestrians and vehicles and other information for convenience or safety, such as parking information signs or entrance and exit signs.

- F. Freestanding Sign: A sign not attached to a building or wall and which is supported by one (1) or more poles or braces or which rests on the ground or on a foundation that rests on the ground.
- G. Governmental Sign: A sign erected or required to be erected by the Township, the County of Muskegon, or by the state or federal government.
- H. Incidental Sign: A sign that identifies street address, entrances and exits, safety precautions, identifying logos without text, and other such incidental information, and which sets forth no other advertisement intended to be read from the street.
- I. Memorial Sign: A sign, tablet, or plaque memorializing a person, event, structure, or site.
- J. Political Sign: A sign erected for a limited period of time for purposes of political campaigns for public office, for elections on public questions, or otherwise relating to public elections or public meetings held for the purpose of voting on or for public offices or public questions.
- K. Real Estate Sign: A sign advertising the real estate upon which the sign is located as being available for sale, rent, or lease.
- L. Sign: A device, structure, fixture, or placard using graphics, symbols and/or written copy designed specifically for the purpose of advertising or identifying an establishment, product, service, commodity, or activity, or displaying or depicting other information.
- M. Subdivision Identification Sign: A sign identifying or otherwise stating the name of a platted subdivision, site condominium development, multifamily development, or other residential development.
- N. Wall Sign: A sign painted or attached directly to and parallel to the exterior wall of a building, extending not greater than twelve (12) inches from the exterior face of the wall to which it is attached.

SECTION 18.03 SIGNS PROHIBITED

The following types of signs are expressly prohibited:

- A. Any sign which has flashing, moving, oscillating, or blinking lights, and/or a digital or LED (light emitting diode) or similar display or face (excluding time and temperature signs and barber pole signs, which are permitted).
- B. Signs imitating or resembling official traffic or governmental signs or signals.
- C. Any sign with a digital or light emitting diode face, side, or component.

- D. Any sign not expressly allowed by this Ordinance.

SECTION 18.04 SIGNS EXEMPTED

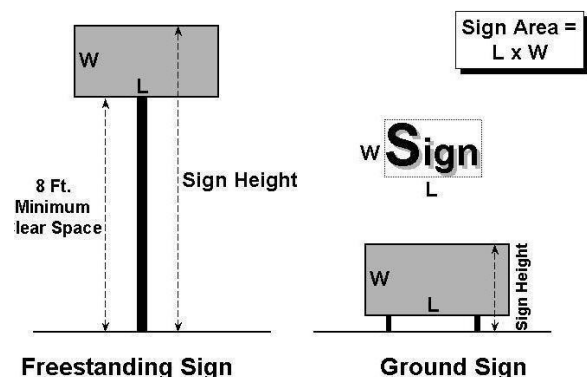
The following signs shall be exempt from the provisions of this Chapter. A.

Governmental signs.

- B. Signs for essential services.
- C. Historical markers.
- D. Incidental signs.
- E. Memorial signs or tablets.
- F. Political signs, except that the signs shall be removed within the time stated in Section 18.07E.
- G. Signs with an address and/or name of the owner or occupant, of not more than two (2) square feet in area, attached to a mailbox, light fixture, or exterior wall.

SECTION 18.05 MEASUREMENT OF SIGNS

- A. The area of a sign shall be measured as the area within a single, continuous perimeter composed of any straight line geometric figure which encloses the extreme limits of writing, representation, emblem, logo and any other figure of similar character, together with any frame or other material or color forming an integral part of the display or used to differentiate the sign from the background against which it is placed, excluding only the structure necessary to support the sign.
- B. The area of a free-standing or ground sign that has two (2) or more faces shall be measured by including the area of all sign faces, except that if the two (2) faces are placed back to back and are of equal size, the area of the two (2) back to back faces shall be counted as one (1) face. If the two (2) back to back faces are of unequal size, the larger of the two (2) sign faces shall be counted as one (1) sign face.
- C. The height of a sign shall be measured as the vertical distance from the highest point of the sign to the grade of the adjacent street or the average grade of the ground immediately beneath the sign, whichever is less.



SECTION 18.06 SIGN APPLICATION AND PERMITS

- A. A sign permit shall be required for the erection, use, construction or alteration of all signs, except for those exempted by the terms of this Chapter. No sign shall be installed or altered prior to a sign permit being issued by the Township. For purposes of this Section, alteration of a sign shall mean any substantial change therein, but shall not include normal maintenance or repair thereof.
- B. An application for a sign permit shall be made to the Zoning Administrator, and shall include submission of a fee as may be required by resolution or other action by the Township Board. The application shall include the following:
 - 1. Name, address, and telephone number of the applicant and the person, firm, or corporation erecting the sign.
 - 2. Address or permanent parcel number of the property where the sign will be located.
 - 3. A sketch showing the location of the building, structure, or parcel of land upon which the sign is to be attached or erected, and showing the proposed sign in relation to buildings and structures, together with the setback from lot lines.
 - 4. Two (2) scaled blueprints or drawings of the plans and specifications for the sign and information on the method of construction and attachment to structures or the ground.
 - 5. Any required electrical permit.
 - 6. Identification of the Zoning District in which the sign is to be located, together with any other information which the Zoning Administrator may require in order to determine compliance with this Chapter.
- C. All signs requiring electrical service shall be reviewed for compliance with the electrical code applicable to the Township.
- D. The Zoning Administrator shall issue a sign permit if all provisions of this Chapter and other provisions of this Ordinance and other applicable Township ordinances are satisfied. A sign authorized by this permit shall be installed or shall be under construction within six (6) months of the date of issuance of the sign permit or the permit shall expire. A new permit may be issued upon the filing of a new application and payment of the required fee.

SECTION 18.07 SIGN REGULATIONS APPLICABLE TO ALL DISTRICTS

- A. It shall be unlawful for any person to erect, place, replace, maintain, or continue a sign upon any lands in the Township except in accordance with the provisions of this Ordinance. Unless a sign is expressly allowed by the provisions of this Ordinance, it is prohibited.
- B. All signs shall be stationary and shall not contain any moving parts or have the appearance of movement.
- C. Real estate signs shall be removed within thirty (30) days after completion of the sale or lease of the property.
- D. Political signs shall be removed within ten (10) days after the election or referendum to which the sign refers.
- E. Except for governmental signs, no sign shall be placed in, or extend into, any public street right-of-way.
- F. One (1) construction sign is allowed per site, per lot or development is permitted, subject to the following restrictions:
 - 1. Construction signs shall not be larger than thirty two (32) square feet and shall not exceed twelve (12) feet in height.
 - 2. Construction signs shall not be erected until a building permit has been issued for the building or project which is the subject of the proposed sign and construction activity has begun.
 - 3. Construction signs shall be removed immediately upon issuance of any occupancy permit for the building or structure which is the subject of the construction sign.
- G. Community special event signs may be permitted to be erected no more than thirty (30) days prior to the event to which they refer and shall be removed within five (5) days following the event.
- H. Signs for roadside stands approved by the Zoning Administrator in accordance with this Ordinance shall be allowed one (1) temporary freestanding sign, not to exceed twenty (20) feet in height and fifty (50) square feet in area, and one (1) wall sign with a maximum area of fifty (50) square feet.
- I. Directional signs shall not exceed six (6) square feet in area per sign or contain any advertising copy.

- J. No wall sign shall project above the building roof line.
- K. A sign mounted to a chimney, or a mansard or gabled roof surface with a pitch greater than fifty (50) degrees shall be considered a wall sign.
- L. Flashing and intermittently illuminated signs are prohibited. Digital and light emitting diode signs are prohibited. Any sign lighting shall be shielded from vehicular traffic and adjacent residential properties.
- M. Any freestanding sign within the clear vision area as determined by Section 3.16, or within fifteen (15) feet of a street right-of-way, that is resting directly on the ground shall not exceed four (4) feet in height. If a sign is supported on poles, it shall have a clear area of at least eight (8) feet between the bottom of the sign and the grade of the adjacent street(s).
- N. All signs shall be kept clean and in good repair at all times.

SECTION 18.08 NONCONFORMING SIGNS; VARIANCES

- A. Every lawful permanent sign which does not conform to the height, size, area, or location requirements of this Chapter is deemed to be nonconforming.
- B. Nonconforming signs shall not be expanded, replaced, enlarged, or extended, but they may be maintained and repaired so as to continue their useful life.
- C. Variances: The Zoning Board of Appeals shall not have the authority to approve any sign type within any District which is not permitted by this Ordinance. The Zoning Board of Appeals may consider variances to sign area, height and setback requirements, subject to the standards of approval in Section 20.07A.
- D. Loss of Nonconforming Status: If a legal nonconforming sign is removed, moved, or suffers 50% or more damage, destruction, deterioration, it must be brought into full compliance with this Ordinance or be removed. In order to determine whether or not a sign has been damaged or has deteriorated or been removed by 50% or more, the costs of physically repairing the sign shall be compared to the costs of physically replacing the entire sign. If less than 50% damage, alteration, loss or deterioration has occurred pursuant to such comparison, the sign may be repaired to its exact original state.

SECTION 18.09 SIGNS IN RESIDENTIAL DISTRICTS

In addition to signs permitted and as regulated in all Districts, the following signs are permitted in Residential Districts:

- A. One (1) nonilluminated subdivision identification sign per entrance road for each subdivision development. A subdivision identification sign shall not exceed thirty two (32) square feet in area and shall not be higher than six (6) feet.
- B. For allowed nonresidential uses, one (1) freestanding sign not to exceed sixteen (16) square feet in sign area and placed a minimum of fifteen (15) feet from each side lot line. The sign shall not be illuminated and shall not be higher than six (6) feet.
- C. Not more than two (2) signs per property, advertising the sale of produce grown on the premises, each sign not to exceed sixteen (16) square feet and a height not exceeding six (6) feet.
- D. Not more than one (1) sign advertising an allowed use on site not to exceed six (6) square feet in area. A home occupation sign shall be installed on the wall of the residence, unless the house containing the business is located a distance greater than sixty (60) feet from the edge of the street pavement, in which case a nonilluminated freestanding sign with a height not to exceed five (5) feet is allowed.

SECTION 18.10 SIGNS IN COMMERCIAL AND INDUSTRIAL DISTRICTS

In addition to signs allowed and as regulated in all Districts, the following signs are permitted in the C Commercial District and LI and LC Light Industrial Districts:

- A. One (1) freestanding sign (for each lot or parcel of land) not to exceed twentyfour (24) square feet in sign area. The highest point of a freestanding sign shall not be higher than four (4) feet above the normal grade of the ground at the base of the sign, unless a Special Land Use approval is obtained for a ground sign (*i.e.*, not on a pole or similar support) having a greater height above the normal grade level.
- B. Wall Signs in the C Commercial District:
 - 1. Each commercial establishment shall be permitted to have one (1) wall sign for each public or private street frontage.
 - 2. Commercial establishments located in a freestanding building with one hundred (100) feet or less of freestanding building frontage shall be permitted a wall sign area not to exceed one (1) square foot of sign for each lineal foot of street frontage of the freestanding building, with a maximum wall sign area of thirty (30) square feet.
 - 3. Commercial establishments with more than one hundred (100) feet of freestanding building frontage shall be permitted a wall sign area not to exceed four (4) square inches of sign for each of the first one hundred (100) lineal feet of freestanding building frontage and three (3) square

inches of additional sign area for each lineal foot in excess of one hundred (100) lineal feet, with a maximum of fifty (50) square feet.

4. Wall sign area for a commercial establishment consisting of a separate business located in a building with other businesses but with a separate and independent entrance shall be calculated in the same manner as in a freestanding building, using the building frontage of the commercial establishment.
5. The wall sign shall be attached to the same wall which is used to determine its size.

C. Wall Signs in the LI and LC Light Industrial Districts:

1. Each industrial establishment shall be permitted to have one (1) wall sign for each public or private street frontage.
2. The size of the wall sign shall comply with the following regulations:
 - a. Industrial establishments with up to one hundred (100) lineal feet of wall fronting a street are permitted to have a sign area not to exceed thirty two (32) square feet.
 - b. Industrial establishments with more than one hundred (100) lineal feet of wall fronting a street are permitted to have a sign area of thirty two (32) square feet plus one (1) additional square foot of sign area for each four (4) lineal feet of wall exceeding one hundred (100) lineal feet.
3. Wall signs shall not face a Residential District unless the district and the building are separated by a public or private street or other Nonresidential District.
4. The wall sign shall be attached to the same wall which is used to determine its size.

SECTION 18.11 SIGNS FOR OTHER LAND USES

Signs for Special Land Uses shall comply with the sign requirements of the District in which the Special Land Use is located; however, the Planning Commission may set more restrictive requirements for signs by imposing conditions pursuant to an approved Special Land Use.

SECTION 18.12 BILLBOARDS

Billboards are allowed only in the I-1 Industrial District and only if approved therein as a special land use. Billboards shall not be located on any lot or parcel upon which a building

or other primary use is located (*i.e.*, the billboard shall constitute the principal and only use of that parcel or lot, and any other principal use permitted within the zoning district involved shall not be established or occur on the same lot or parcel as the billboard). Billboards must be located on a lot or parcel which meets all of the minimum size, width, and dimensional requirements for the zoning district where it is located.

A billboard shall not exceed two hundred (200) square feet in total sign area nor shall it exceed a height of twenty (20) feet as measured from the natural grade at the base of the billboard. The billboard shall be located so as to comply with all of the setback requirements for a structure within the zoning district within which it is located.

CHAPTER 19 NONCONFORMING BUILDINGS OR STRUCTURES, USES, AND LOTS

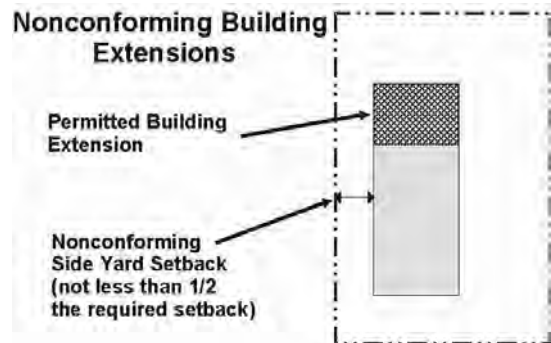
SECTION 19.01 GENERAL CONDITIONS

- A. Except where specifically provided to the contrary, and subject to the provisions of this Chapter, any building or structure, the use of any land or premises, or any lot that exists lawfully on the effective date of this Ordinance, or amendment, may be continued even though the building or structure, use, or lot does not conform with the provisions of this Ordinance or any amendment.
- B. Any building or structure shall be considered existing and lawful and for purposes of this Ordinance to have been in use for the purpose for which constructed if on the effective date of this Ordinance, a building permit has been obtained therefore, if required, or, if no building permit is required, a substantial start has been made toward construction and construction is thereafter pursued diligently to conclusion.
- C. Any structures or uses which did not comply with the previous White River Township Zoning Ordinance, were not nonconforming uses or structures, and which violate this Ordinance shall not be considered nonconforming under this Ordinance and shall be subject to enforcement under this Ordinance.

SECTION 19.02 NONCONFORMING BUILDINGS OR STRUCTURES

- A. Nonconforming building or structures may be extended, enlarged, altered, remodeled or modernized only when the Zoning Board of Appeals determines that the following conditions are met:

1. The building or structure shall comply with all height, area, setback, and/or parking and loading provisions with respect to the extension, enlargement, alteration, remodeling or modernization.
2. The alteration, remodeling, or modernization will not substantially extend the life of any nonconforming building or structure.
3. The enlargement or extension is on the same lot on which the nonconforming building or structure was located at the time of the adoption of this Ordinance.



4. The enlargement or extension will not interfere with the use of other properties in the vicinity.
 5. The enlargement or extension shall not exceed fifty percent (50%) of the gross floor area of the original building or structure when it became nonconforming.
- B. Any building or structure which is nonconforming by reason of parking or loading provisions and which thereafter provides additional parking and/or loading spaces shall not thereafter be permitted to use the additional spaces to meet requirements for any extension, enlargement, or change of use which requires additional parking and/or loading spaces.
- C. Where a building or structure is nonconforming for setback by a distance equal to or less than one-half (1/2) of the distance required by this Ordinance, the nonconforming setback may be extended along the same plane as the existing nonconforming setback, provided that in so doing, the setback itself is not further reduced, approved by the Zoning Board of Appeals occurs under subsection A and all other required setbacks are met.
- D. Restoration and Repair
1. Subject to the provisions of this Section, nothing in this Ordinance shall prevent the strengthening or restoring to a safe condition of any part of any building or structure which is unsafe so long as structural alterations do not occur.
 2. All repairs and maintenance work required to keep a nonconforming building or structure in sound condition may be made but it shall not be structurally altered to permit the use of the building or structure beyond its natural life except for repairs necessary to maintain public safety.
 3. The following applies to nonresidential nonconforming buildings or structures or residential dwellings, except single family detached dwellings, damaged by fire, wind, Act of God or public enemy:
 - a. These buildings or structures may be rebuilt or restored if the cost thereof does not exceed fifty percent (50%) of the true cash value of the nonconforming building or structure prior to its damage or destruction.
 - b. If the cost of restoration or repair would exceed fifty percent (50%) of the true cash value of the nonconforming building or structure prior to its damage or destruction, replacement or rebuilding shall only be allowed if first authorized by the Zoning Board of Appeals. In

considering this authorization, the Board shall consider the following standards:

- (a) Whether the rebuilding or replacement will significantly extend the probable duration of the nonconforming building or structure.
 - (b) Whether or not the land previously occupied by the nonconforming structure can be otherwise reasonably developed according to the area, height and dimensional standards in the applicable District.
- 4. Reconstruction of nonconforming buildings (where allowed) shall begin within one (1) year of the date on which the structure was damaged. If construction is not commenced and proceeding diligently at the end of one (1) year, the building may be rebuilt or restored provided that all yard and other requirements of this Ordinance and the District in which it is located are met, or the necessary variances obtained from the Zoning Board of Appeals.
- 5. Nonconforming single family residential dwellings damaged by fire, wind, explosion, Act of God, or public enemy to any degree may be rebuilt or restored provided that the reconstruction takes place within the original nonconforming footprint and the building is of the same size or smaller than the dwelling being replaced.
- 6. Nonconforming structures or buildings which are voluntarily or intentionally replaced, destroyed or removed shall not be rebuilt or replaced, and any rebuilding or replacement shall fully comply with this Ordinance.
- 7. This subsection D shall not apply to nonconforming signs, which are governed by 0.

SECTION 19.03 NONCONFORMING USES

- A. Except as noted below, the nonconforming use of a building, structure, land or premises shall not be:
 - 1. Re-established after it has been changed to a conforming use.
 - 2. Re-established after abandoned and discontinued for a continuous period of twelve (12) months. A nonconforming use shall be determined to be abandoned if one (1) or more of the following conditions exists, and which shall be deemed to constitute an intent on

the part of the property owner to abandon the nonconforming use as determined by the Zoning Administrator:

- a. Utilities, such as water, gas and electricity to the property, have been disconnected.
 - b. The property, buildings, and grounds, have fallen into disrepair.
 - c. Signs or other indications of the existence of the nonconforming use have been removed.
 - d. Removal of equipment or fixtures which are necessary for the operation of the nonconforming use.
 - e. Other actions, which in the opinion of the Zoning Administrator constitute intent on the part of the property owner or lessee to abandon the nonconforming use.
- B. A nonconforming use may be changed to another nonconforming use if approved by the Zoning Board of Appeals and provided that all of the following determinations are made by the Zoning Board of Appeals:
1. The proposed use shall be as compatible as or more compatible with the surrounding neighborhood than the previous nonconforming use.
 2. The proposed nonconforming use shall not be enlarged or increased, nor extended to occupy a greater area of land than the previous nonconforming use, except as may otherwise permitted by this Section.
 3. That appropriate conditions and safeguards are provided that will ensure compliance with the intent and purpose of this Ordinance.

SECTION 19.04 NONCONFORMING LOTS

- A. In any zoning district in which single-family dwellings are permitted, notwithstanding other limitations imposed by other provisions of this Ordinance, a single-family dwelling and customary accessory buildings may be erected on any lawful nonconforming lot of record, subject to the following conditions:
1. Lot coverage by said dwelling and accessory building shall not exceed twenty-five (25%) percent.
 2. If two (2) or more parcels or lots, one of which does not contain a principal building, are located adjacent to each other or have contiguous frontage and are held or owned in single ownership of record, and if all or part of such lots do not satisfy the minimum

requirements for lot width, lot area, street frontage, or other dimensions, such lots and parts of lots shall be deemed automatically combined and shall be used so as to meet the requirements for lot width and area. Any lots so combined shall not be detached or divided.

- B. Any parcel of land in any Commercial or Industrial District that does not comply with the minimum lot area requirement and/or minimum lot width requirement for the district in which the parcel of land is located, may nevertheless be used for a use permitted in that district if all structures comply with the regulations and requirements of that zoning district, as well as the site plan review requirements, when applicable.

CHAPTER 20 ZONING BOARD OF APPEALS

SECTION 20.01 AUTHORIZATION

In order that the objectives of this Ordinance may be more fully and equitably achieved, that there shall be provided a means of competent interpretation of this Ordinance, that adequate but controlled flexibility be provided in the application of this Ordinance, that the health, safety, and welfare of the public be secured, and that justice will be done, there is hereby established a Township Zoning Board of Appeals.

SECTION 20.02 MEMBERSHIP – TERMS OF OFFICE

A. Membership

1. The Zoning Board of Appeals shall consist of not less than five (5) members nor more than seven (7) members.
2. The first member of the Zoning Board of Appeals shall be a member of the Township Planning Commission; the second member may be a member of the Township Board; the additional members shall be selected from the electors residing in the township. If a member of the Township Board serves on the Zoning Board of Appeals, he/she shall not be the chairperson.
3. All members shall be appointed by the Township Board. No member shall be an elected officer (clerk, supervisor, treasurer) of the Township or an employee or contractor of the Township.
4. Members shall be appointed for three (3) year terms. The Planning Commission and Township Board representatives, who shall not be the same member, shall only serve while holding membership on those respective bodies.
5. A member of the Zoning Board of Appeals who is also a member of the Planning Commission or the Township Board shall not participate in a public hearing on or vote on the same matter that the member voted on as a member of the Planning Commission or the legislative body. However, the member may consider and vote on other unrelated matters involving the same property.

B. Alternates

1. The Township Board may appoint up to two (2) alternate members for the same terms as the regular members.

2. An alternate member may be called to serve as a regular member in the absence of a regular member if the regular member is absent from or will be unable to attend one (1) or more meetings or a regular member has abstained for reasons of conflict of interest.
 3. The alternate member shall serve in a specific case until a final decision is made. The alternate member shall have the same voting rights as a regular member.
- C. Removal: A member of the Zoning Board of Appeals may be removed by the Township Board for misfeasance, malfeasance, or nonfeasance in office upon written charges and after a 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 known conflict of interest constitutes malfeasance in office. Whenever a member of the Zoning Board of Appeals has a conflict of interest with respect to a matter presented to the Zoning Board of Appeals, the member shall state on the record the nature of the conflict of interest, and the member shall not participate in the Zoning Board of Appeals' discussion, consideration, deliberation, or decision of the matter.

SECTION 20.03 DUTIES AND POWERS

The Township Zoning Board of Appeals shall have the following specified duties and powers:

A. Appeals: The Zoning Board of Appeals shall hear and decide appeals from and review any order, requirement, decision, or determination made by the Zoning Administrator or other administrative officer or body of the Township in the administration of this Ordinance except as otherwise provided by this Ordinance. B. Interpretation: The Zoning Board of Appeals shall have the power to:

1. Hear and decide upon request for the interpretation of the provisions of the text of this Ordinance.
 2. Determine the precise location of boundary lines between Districts upon appeal from a decision regarding the location by the Zoning Administrator.
- C. Variances. The Zoning Board of Appeals shall have the power to authorize specific variances from the requirements of this Ordinance.
- D. The Zoning Board of Appeals shall have authority to hear appeals regarding nonconforming uses, structures, and lots.

SECTION

A.

20.04 MEETINGS

Meetings shall be open to the public, and shall be held at the call of the Chairman and at other times as the Zoning Board of Appeals shall specify in its rules of procedure.

B. Applications

1. An application to the Zoning Board of Appeals shall consist of a completed application form, provided by the Township, a fee or fees as established by the Township Board, which shall be paid to the Township Clerk at the time of filing, and a scaled drawing with sufficient detail to indicate the nature and necessity of the request.
2. The Zoning Board of Appeals may request additional detail on the drawing or other information which they deem necessary to make a decision on the application. C. Hearings:

1. Upon receipt of a complete application and any applicable fee(s), the Township shall schedule a public hearing and shall cause notice of the hearing to be made as required by the Zoning Act.
2. The Zoning Board of Appeals may recess hearings from time to time, and, if the time and place of the continued hearing is publicly announced at the time of adjournment, no further notice shall be required.

D. Rules of Procedure: The Zoning Board of Appeals may adopt rules and regulations for the conduct of its meetings. The Zoning Board of Appeals shall elect from its membership a Chairperson, Vice-Chairperson, Secretary and other officers as deemed necessary. The Zoning Board of Appeals shall not conduct business unless a majority of its members are present. The presence of three (3) members shall constitute a quorum (or four (4) members where the Zoning Board of Appeals has seven (7) members in total).

The regular place and time of meeting of the Zoning Board of Appeals may be established by the Zoning Board of Appeals in its rules and regulations. Except as otherwise specified in the rules and regulations of the Zoning Board of Appeals, procedure in meetings of the Zoning Board of Appeals shall be governed by Robert's Rules of Order.

Minutes of proceedings shall be kept for the Zoning Board of Appeals meetings. These minutes shall list the members absent and present and shall show the action taken by the Zoning Board of Appeals, as well as the vote of each member upon each matter presented to the Zoning Board of Appeals.

SECTION

A.

20.05 DECISIONS

Voting

1. The concurring vote of a majority of the membership (three (3) votes if there are five (5) members of the Zoning Board of Appeals or four (4) votes if there are seven (7) members of the Zoning Board of Appeals) of the Zoning Board of Appeals shall be necessary to decide any appeal, interpretation, nonuse variance, or other matter referred to the Zoning Board of Appeals.
2. The concurring vote of three-quarters (3/4) of the membership (four (4) votes if there are five (5) members of the Zoning Board of Appeals or five (5) votes if there are seven (7) members of the Zoning Board of Appeals)) of the Zoning Board of Appeals shall be necessary to decide any use variance.
3. The Zoning Board of Appeals shall make its decision on each case within a reasonable time after the scheduled hearing has been held.

B. Decisions

1. Any decision of the Zoning Board of Appeals shall not become final until the minutes of the meeting at which final action on the request was taken are officially approved and adopted by the Zoning Board of Appeals, unless the Zoning Board of Appeals certifies the decision at the time of the decision.
2. The decision of the Zoning Board of Appeals shall be final; however, any person having an interest affected by any such decision shall have the right of appeal to the Circuit Court on questions of law and fact.
3. Each decision entered under the provisions of this Chapter shall become null and void unless the construction or other action authorized by the decision has been started within one (1) year after the decision was made and is being carried forward to completion or occupancy of land, premises, or buildings.

C. No application 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 grounds of changed conditions that would significantly change the nature of the request or affect the reasons for denial first ordered by the Zoning Board of Appeals.

20.06 APPEALS

Appeals to the Zoning Board of Appeals may be taken by any person aggrieved, or by any officer, department or board of the Township. Applications for appeals shall be filed in writing with the Township within twenty-one (21) days after the date of the decision which is the basis of the appeal. The appellant must file with the Zoning Administrator a written notice of appeal within such 21-day time period (and pay any applicable fee or fees) specifying the nature and grounds for the appeal. The Zoning Administrator shall transmit to the Zoning Board of Appeals all the papers constituting the record upon which the action appealed from was taken.

- B. 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 the notice of the appeal shall have been filed with him that, for reason of facts stated in the certificate, a stay would, in his or her opinion, cause imminent peril to life or property, in which case proceedings shall not be stayed otherwise than by a restraining order, which may be granted by the Zoning Board of Appeals or, on application, by the Circuit Court when due cause can be shown. Notwithstanding the preceding, the Township may pursue appropriate enforcement proceedings, and similar matters despite the stay provision.

SECTION 20.07 REVIEW STANDARDS FOR VARIANCES

- A. Nonuse Variance: A nonuse or dimensional variance may be approved by the Zoning Board of Appeals only in cases where there is reasonable evidence of practical difficulty in the official record of the hearing and the Zoning Board of Appeals also finds ALL of the following standards are met:
1. Granting the variance will not be contrary to the public interest and will ensure that the spirit of this Ordinance is observed.
 2. Granting the variance will not cause a substantial adverse effect to property or improvements in the vicinity or in the district in which the subject property is located.
 3. The variance request, if granted, will be the minimum variance (*i.e.*, the least variation or change from the particular requirement of the Ordinance involved) that will make possible the reasonable use of the land, structure, or building involved.
 4. The variance request is not one where the specific conditions pertaining to the property are so general or recurrent in nature as to make the formulation of a general regulation for such conditions reasonably practicable.

SECTION

A.

5. That there are practical difficulties in the way of carrying out the strict letter of these regulations which are caused by exceptional or extraordinary circumstances or conditions applying to the property involved, or to the intended use of the property, that do not generally apply to other property or uses in the vicinity in the same zoning district. Exceptional or extraordinary circumstances or conditions include:
 - a. exceptional narrowness, shallowness or shape of a specific property.
 - b. exceptional topographic conditions;
 - c. by reason of the use or development of the property immediately adjoining the property in question; or
 - d. any other physical situation on the land, building or structure deemed by the Zoning Board of Appeals to be exceptional or extraordinary.
6. That granting the variance is necessary for the preservation of a substantial property right possessed by other properties in the vicinity in the same zoning district.
7. That the variance is not necessitated as a result of any action or inaction of the applicant or the applicant's predecessors.

B. Use Variance: A use variance may be approved by the Zoning Board of Appeals only in cases where there is reasonable evidence of unnecessary hardship in the official record of the hearing and the Zoning Board of Appeals also finds that ALL of the following standards are met:

1. That the building, structure, or land cannot yield a reasonable return if required to be used for a use allowed in the District in which it is located.
2. That there are unnecessary hardships in the way of carrying out the strict letter of these regulations which are caused by exceptional or extraordinary circumstances or conditions applying to the property involved, or to the intended use of the property, that do not generally apply to other property or uses in the vicinity in the same Zoning District. Exceptional or extraordinary circumstances or conditions include:
 - a. exceptional narrowness, shallowness or shape of a specific property.
 - b. exceptional topographic conditions;

- c. by reason of the use or development of the property immediately adjoining the property in question; or
 - d. any other physical situation on the land, building or structure deemed by the Board of Appeals to be exceptional or extraordinary.
 - 3. That the variance request, if granted, will be the minimum variance (*i.e.*, the least variation or change from the particular requirement of the Ordinance involved) that will make possible the reasonable use of the land, structure, or building involved.
 - 4. That the variance must be necessary for the preservation and enjoyment of a substantial property right which is similar to that possessed by other properties in the same zoning district and vicinity. (NOTE—a possible increased financial return shall not, of itself, be deemed sufficient to warrant a variance.)
 - 5. That the proposed use will not alter the essential character of the neighborhood.
 - 6. That the variance is not necessitated as a result of any action or inaction of the applicant or the applicant's predecessors.
 - 7. That the building, structure or use cannot be reasonably used under the current zoning regulations
- C. Prior to the Zoning Board of Appeals hearing on a request for a use variance, the Zoning Board of Appeals may request that the Planning Commission consider the request and forward a report to the Board of Appeals as to whether or not in its opinion the property may be reasonably used for a use allowed under the existing zoning classification, and, whether or not the request may alter the essential character of the neighborhood. For this report, the Planning Commission shall consider the Master Plan, the ability of the property owner to use the property for a use already permitted under the existing zoning classification, and the effect of the request on the essential character of the neighborhood.

SECTION 20.08 INTERPRETATIONS

- A. Text Interpretations: The Zoning Board of Appeals may hear and decide upon appeals by any aggrieved person regarding the interpretation of the text provisions of this Ordinance after the Zoning Administrator has rendered his/her interpretation and after a public hearing.
 - 1. Text interpretations shall be narrow and address only the situation being interpreted, be based on a thorough reading of this Ordinance and not have the effect of amending this Ordinance.

2. Interpretations shall give weight to practical interpretations by the Zoning Administrator and other administrative officials if applied consistently over a long period of time.
 3. Records shall be kept of all interpretations.
 4. Where the intent of this Ordinance is unclear and the facts can be read to support equally more than one (1) interpretation, the benefit of doubt shall go to the property owner.
- B. Zoning Map Interpretations: The Zoning Board of Appeals may hear and decide appeals by any aggrieved person regarding for the interpretation of the boundaries of the zoning districts of the Official Zoning Map after the Zoning Administrator has rendered his/her interpretation and after a public hearing.
1. Where uncertainty exists as to the boundaries of Districts as shown on the zoning map, the rules of construction and interpretation of Chapters 1 and 2 shall apply.
 2. Where the rules of construction and interpretation of Chapters 1 and 2 do not resolve the location of the zoning boundary, the Zoning Board of Appeals shall set the location of the boundary, provided that the Zoning Board of Appeals shall not have the authority to change the zoning designation of any property.

SECTION 20.09 LACK OF ZONING BOARD OF APPEALS JURISDICTION

- A. The Zoning Board of Appeals is without jurisdiction to hear any appeals or matters involving any of the following:
1. A planned unit development (PUD).
 2. A special land use.
 3. Site plan decisions.
 4. Use variance for signs.

Notwithstanding the fact that the Zoning Board of Appeals generally has no jurisdiction with regard to the above-mentioned matters, the Zoning Board of Appeals shall have jurisdiction to entertain variance requests related to subsections (1), (2), and/or (3) above, if the Township body which makes the final decision regarding the matter (for example, the Township Board with regard to a PUD or the Planning Commission with regard to a special land use) expressly grants written permission to the landowner or applicant involved to apply to the Zoning Board of Appeals for a variance of one or more of the underlying

requirements of the Zoning Ordinance. For example, but not by way of limitation, the Planning Commission could approve a particular special land use request contingent upon the Zoning Board of Appeals granting a variance for an otherwise applicable requirement within the Ordinance which would normally prohibit the applicant or landowner from taking advantage of a special use approval absent a variance.

- B. No Advisory Opinions: The Zoning Board of Appeals shall not give advisory, informal, or hypothetical opinions or decisions.

SECTION 20.10 CONFLICT OF INTEREST

A member of the Zoning Board of Appeals shall not participate or vote with respect to a matter in which the member has a conflict of interest. Failure of a member to refrain from participating or voting in a matter in which the member has a known conflict of interest shall constitute misconduct in office. A conflict of interest exists whenever a member of the Zoning Board of Appeals owns land within the Township which is significantly affected by a matter presented to the Zoning Board of Appeals, or a member has a direct financial interest in the matter presented to the Zoning Board of Appeals. A conflict of interest may exist in other circumstances as well.

The Zoning Board of Appeals should strive to avoid even the appearance of impropriety. Whenever a member of the Zoning Board of Appeals has a conflict of interest or appears to have a conflict of interest with respect to a matter presented to the Zoning Board of Appeals, the member shall state on the record the nature of the conflict of interest, or the circumstances which exist which could be perceived to be a conflict of interest. If the member has a conflict of interest, the member shall not participate in the Zoning Board of Appeals' consideration of the matter. If circumstances exist which could be perceived to be a conflict of interest, the member, after disclosure of these circumstances, may continue to participate in the Zoning Board of Appeals' consideration of the matter if the member can be fair, objective and impartial, subject to the vote of the other members of the Zoning Board of Appeals.

Nondisclosure of a known conflict of interest shall be misconduct in office, and nondisclosure of circumstances which exist which could be perceived to be a conflict of interest may also constitute misconduct in office.

If a member of the Zoning Board of Appeals fails to disclose any circumstances which could be perceived to be a conflict of interest and the Zoning Board of Appeals later becomes aware of such circumstances, or if a member of the Zoning Board of Appeals participates in the consideration of a matter in which the member has a known conflict of interest, the Zoning Board of Appeals may, upon the vote of a majority of the regular members of the Zoning Board of Appeals (other than the member who has failed to make the disclosure or who participated in the consideration of a matter in which the member

had a conflict of interest), the Zoning Board of Appeals may make a recommendation to the Township Board that the member be removed from the Zoning Board of Appeals for misconduct in office. If the Zoning Board of Appeals makes such a recommendation to the Township Board, the Township Board shall hold a public hearing to consider the recommendation.

SECTION 20.11 CONDITIONS

The Zoning Board of Appeals may impose conditions on the granting of a variance. Conditions may include (but are not limited to) those necessary to ensure the public services and facilities will be capable of accommodating increased service and facility loads caused by the proposed land use or activity; to protect the natural environment and conserve natural resources and energy; to ensure compatibility with adjacent uses of land in a socially and economically desirable manner.

SECTION 20.12 REVOCATION OF VARIANCES

If any condition or requirement of a variance granted by the Zoning Board of Appeals is violated and such violation continues despite at least one prior written warning letter to the then-owner of the property involved (as shown on the current Township property tax records), the Zoning Board of Appeals may revoke the variance after having held a public hearing and the then-landowner having had at least ten (10) days' prior notice of the hearing via a written hearing notice sent to the landowner's last known address (as listed in the Township's property tax records).

CHAPTER 21 ADMINISTRATION AND ENFORCEMENT

SECTION 21.01 REPEAL OF PRIOR ORDINANCE

The Zoning Ordinance previously adopted by the Township on _____, 19__, and all amendments thereto, are hereby repealed. The repeal of such prior ordinance and its amendments does not affect or impair any act done, offense committed or right accruing, accrued, or acquired, or liability, penalty, forfeiture or punishment incurred prior to the time enforced, prosecuted or inflicted.

SECTION 21.02 INTERPRETATION

- A. In the interpretation and application, the provisions of this Ordinance shall be held to be minimum requirements adopted for the promotion of the public health, safety, comfort, convenience, or general welfare.
- B. It is not intended by this Ordinance to repeal, abrogate, annul, or in any other way impair or interfere with existing provisions of other laws or ordinances, except those specifically repealed by this Ordinance, or of any private restrictions placed upon property by covenant, deed, or other private agreement.
- C. Where any provision of this Ordinance imposes more stringent requirements, regulations, restrictions, or limitations upon the erection or use of land, any activity, structures, and buildings, or upon the height of buildings and structures, or upon safety and sanitary measures, or requires larger yards or open spaces than are imposed or required by the provisions of any other law or ordinance, or any other rules, regulations, permits, or easements, then the provisions of this Ordinance shall govern.
- D. Nothing in this Ordinance should be interpreted or construed to give rise to any permanent vested rights in the continuation of any particular use, zoning classification or permissible activities; 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.
- E. The Zoning Administrator shall administer and enforce this Ordinance and shall also have the power to interpret this Ordinance. Any interpretation or determination of the Zoning Administrator may be appealed to the Zoning Board of Appeals by an aggrieved person, in compliance with Chapter 20.

SECTION 21.03 ZONING ADMINISTRATOR DUTIES AND ZONING COMPLIANCE PERMITS

- A. Zoning Compliance Permits. The Zoning Administrator shall have the authority to issue zoning compliance permits in accordance with the requirements of this Ordinance.

1. It shall be unlawful to commence a use or activity, build, alter, or expand a building or structure, or change the type of use of land, or change the type of use or type of occupancy of any building, or extend any use on any lot on which there is a lawful nonconforming use, until the Zoning Administrator has determined the change, use, activity, building or structure to be in compliance with applicable provisions of this Ordinance (as well as any other Township ordinance) and has issued a zoning compliance permit.
2. It shall be unlawful to commence excavation for, or construction of, any building or other structure, including an accessory building or parking area, or to commence the moving or alteration of any structure, including accessory buildings, exceeding one hundred (100) square feet in gross ground floor area, until the Zoning Administrator has given documented approval of his/her opinion that the plans, specifications and intended use of such structure, building or land does in all respects conform to the provisions of this Ordinance (and all other Township ordinances) and has issued a zoning compliance permit. A structure, building or use that does not require a zoning compliance permit shall still comply with all of the requirements of this Ordinance.
 - a. It shall be unlawful for the Zoning Administrator to approve any plans or issue a zoning compliance permit for any excavation or construction or use until the Zoning Administrator has inspected the plans in detail and found them in compliance with this Ordinance (and all other Township ordinances).
 - b. Issuance of a zoning compliance permit shall in no case be construed as waiving any provision of this Ordinance (or any other Township ordinances).
 - c. The Zoning Administrator shall not refuse to issue a permit when the applicant complies with all of the requirements imposed by this Ordinance and all other applicable Township, County, and State ordinances, laws and regulations. Violations of contracts, such as covenants or private agreements, which may result upon the granting of the permit, are not cause for refusal to issue a permit.
 - d. The Zoning Administrator may refuse to issue a zoning compliance permit regarding a property where there are unresolved or outstanding violations of any Township ordinance, including this Zoning Ordinance. Upon resolution of prior unresolved or outstanding violations, the Zoning Administrator shall issue the permit so long as all other ordinance and legal requirements are met.

- e. When the Zoning Administrator receives an application for a zoning compliance permit that requires Planning Commission, Township Board, or Zoning Board of Appeals approval(s), the Zoning Administrator shall so inform the applicant.
 - f. A zoning compliance permit shall not be issued until all applicable fees, charges and expenses have been paid in full.
- 3. A zoning compliance permit shall not be required for ordinary repairs or maintenance to one- or two-family residential dwellings or to any structure accessory thereto, including but not limited to roofing, siding, and interior work.
- B. The Zoning Administrator is not, under any circumstance, permitted to grant exceptions to the actual meaning of any clause, order, or regulation contained in the Ordinance to any person making application to excavate, construct, move, alter or use either buildings, structures or land.
- C. The Zoning Administrator shall have the authority to make inspections of buildings or premises necessary to carry out his/her duties in the enforcement of the Ordinance.
- D. The Zoning Administrator may not make changes to this Ordinance or vary the terms of this Ordinance in carrying out his/her duties.
- E. The Zoning Administrator shall require every application for a zoning compliance permit for excavation, construction, moving, alteration or change in type of use or type of occupancy to be accompanied by a site plan prepared in accordance with specifications of Chapter 15 where applicable.
- F. If the Zoning Administrator does not approve an application for the permit, the reasons for the rejection shall be stated in writing on an appropriate form.
- G. The Zoning Administrator may attach reasonable conditions to the issuance of a zoning compliance permit.
- H. Zoning compliance permits shall be valid for one (1) year, and shall expire if the use has not been commenced or substantial construction has not begun within such time period. The Zoning Administrator may approve extensions (with time limits shorter than one (1) year) subject to conditions attached by the Zoning Administrator.
- I. No building permit shall be issued unless a zoning compliance permit has first been issued.
- J. A violation of a zoning compliance permit shall also constitute a violation of this Ordinance.

SECTION 21.04 REMEDIES AND ENFORCEMENT

- A. Any use of land or activity and any building or structure which is erected, used, moved, placed reconstructed, razed, extended, enlarged, altered, maintained or changed in violation of any provision of this Ordinance is hereby declared to be a nuisance *per se*.
- B. A violation of this Ordinance constitutes a municipal civil infraction. The Zoning Administrator or other Township designee shall have the authority to issue civil infraction tickets/citations for any violation of this Ordinance.
- C. Any person who violates, disobeys, omits, neglects or refuses to comply with any provision of this Ordinance, or any permit or approval issued hereunder, or any amendment thereof, or any person who knowingly or intentionally aids or abets another person in violation of this Ordinance, shall be in violation of this Ordinance and shall be responsible for a municipal civil infraction.
- D. The civil fine for a municipal civil infraction shall be not less than fifty dollars (\$50.00) nor more than one hundred dollars (\$100.00) for the first offense and not less than two hundred dollars (\$200.00) for subsequent offenses, in the discretion of the Court, in addition to all other costs, damages, expenses and remedies provided by law. The person violating the Ordinance shall be responsible to reimburse the Township for its reasonable attorney fees and costs for obtaining the remedies permitted by this Section.
- E. For purposes of this Section, "subsequent offense" means a violation of the provisions of this Ordinance committed by the same person within twelve (12) months of a previous violation of the same provision of this Ordinance or similar provision of this Ordinance for which the same person admitted responsibility or was adjudged to be responsible.
- F. Each day during which any violation continues shall be deemed a separate offense.
- G. In addition to pursuing a municipal civil infraction proceeding, the Township may also institute an appropriate action in a court of competent jurisdiction seeking injunctive, declaratory, or other equitable relief to enforce or interpret this Ordinance or any provision of this Ordinance.
- H. All remedies available to the Township under this Ordinance and Michigan law shall be deemed to be cumulative and not exclusive.

SECTION 21.05 ZONE CHANGES AND AMENDMENTS

The Township Board may, from time to time, on recommendation from the Planning Commission, or on its own motion, or on petition, amend, supplement, modify or change

this Ordinance or the Zoning Map in accordance with the authority of the Zoning Act, as amended.

SECTION 21.06 PETITIONS

- A. The Township Board, the Planning Commission, or any person desiring an amendment or change in the map or in any other provision of this Ordinance may present to the Planning Commission, through the Township Clerk, a petition for an amendment or change, together with a fee in the amount specified in a Resolution adopted by the Township Board and in effect at the time of application. The fee is waived for a petition initiated by the Township Board or Planning Commission
- B. At its discretion, the Planning Commission may process the petition and hold a public hearing after notice and make a report to the Township Board in accordance with the requirements of the Zoning Act.

SECTION 21.07 PERFORMANCE GUARANTEES

As a condition of approval of a site plan review, special land use, variance, PUD, conditional rezoning, zoning compliance permit or other zoning approval, the Township Board, Planning Commission, Zoning Administrator, or the Zoning Board of Appeals may require a performance or other guarantee from the applicant to ensure compliance with any zoning approval and this Ordinance. The performance or other guarantee shall be in an amount, form, and type with language which is approved by the Township body or official involved. The Township shall have the discretion to require a bond, irrevocable letter of credit, or monetary deposit with the Township.

With regard to required improvements, the Township can require a performance guarantee of a sufficient amount and form to assure the installation of required improvements or components of the approved use, activity, or construction which are considered reasonably necessary to protect the health, safety, and welfare of the public and of users or inhabitants of the proposed development.

The features or components, hereafter referred to as “improvements,” may include, but shall not be limited to, survey monuments and irons, streets, curbing, landscaping, fencing, walls, screening, lighting, drainage facilities, sidewalks, paving, driveways, utilities, and similar items.

Performance guarantees for improvements shall be processed in the following manner:

- A. Prior to the issuance of a Certificate of Occupancy, the applicant or their agent shall submit an itemized estimate of the cost of the required improvements that are subject to the performance guarantee, which shall then be reviewed by the Zoning Administrator. The amount of the performance guarantee shall be one hundred percent (100%) of the cost of purchasing of materials and installation of

the required improvements, plus the cost of necessary engineering and inspection costs and a reasonable amount for contingencies.

- B. The required performance guarantee shall be payable to the Township and may be in the form of a cash deposit, certified check, irrevocable bank letter of credit, or surety bond acceptable to the Township.
- C. Upon receipt of the required performance guarantee, the Zoning Administrator shall issue an applicable permit for the subject development or activity, provided it is in compliance with all other applicable provisions of this Ordinance and other applicable ordinances of the Township.
- D. The Zoning Administrator, upon the written request of the obligor, 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 applicable improvements.
- E. When all of the required improvements have been completed, the applicant shall send written notice to the Zoning Administrator of completion of the improvements. Thereupon, the Zoning Administrator shall inspect all of the improvements and approve, partially approve, or reject the improvements with a statement of the reasons for any rejections.
- F. If partial approval is granted, the cost of the improvement rejected shall be set forth. Where partial approval is granted, the obligor shall be released from liability pursuant to relevant portions of the performance guarantee, except for that portion sufficient to secure completion of the improvements not yet approved.
- G. The Zoning Administrator shall maintain a record of required performance guarantees.
- H. In lieu of providing performance guarantees, the Township and the applicant for a development proposal may agree to enter into a development agreement that would be recorded with the County Register of Deeds.

SECTION 21.08 FEES & ESCROWS

- A. The Township Board shall, by resolution, establish fees for the administration of this Ordinance, including all proceedings and matters that may arise hereunder. A listing of current fees shall be available for review by the public during regular Township office hours at the Township Hall. Fees may be changed from time to time by resolution of the Township Board.
- B. The applicant shall pay all applicable fees upon the filing of any application or other request or application under this Ordinance for which a fee is required.

- C. In addition to regularly established fees, the Township Board in its discretion may also require an applicant to submit to the Township an amount of money determined by the Township to be a reasonable estimate of the fees and costs which may be incurred by the Township in reviewing and acting upon any such application or related matters. The estimated fees and costs shall be submitted prior to any Township review of an application or request.
- D. The Township shall not charge fees or assess costs to the applicant for the time expended by Township employees (except as authorized under appropriate provisions of the Freedom of Information Act, Public Act 442 of 1976, as amended) or for incidental costs and expenses, but may charge or assess the applicant for all other reasonable costs and expenses incurred by the Township during and in connection with the review process and other related proceedings, whether or not the application is granted either in whole or in part.
- E. The costs and expenses to be charged or assessed to the applicant, for reimbursement of the Township's reasonable costs and expenses, may include but shall not be limited to Township attorney fees, engineering fees, professional planning reviews costs and fees for services or outside consultants, fees and expenses of other professionals who may assist the Township, costs and fees for studies and reports pertaining to the matters in question, special meeting costs, and other reasonable costs and expenses.
- F. Any monies paid or deposited by an applicant which are not used or spent by the Township shall be refunded to the applicant. If, for some reason, the applicant does not pay, or the Township does not collect, zoning escrow fees during the zoning review process, the Township can still bill such costs and expenses to the applicant after the zoning review process has been completed and the applicant or landowner shall promptly pay/reimburse the Township for the same.

SECTION 21.09 STOP WORK ORDERS

- A. Notice to Owner: Upon notice from the Zoning Administrator, or his or her designee, that any use is being conducted or that any work on any building or structure is being prosecuted contrary to the provisions of this Ordinance, that work or use shall be immediately stopped. The Stop Work Order shall be in writing and shall be given to the owner of the property involved, to the owner's agent, or to the person doing the work and shall state the conditions, if any, under which work or the use will be permitted to resume.
- B. Unlawful Continuance: Any person who shall continue to work in or about the structure, land or building, or use after having been served with a Stop Work Order, except the work as that person is directed to perform to remove a violation or correct an unsafe condition, shall be in violation of this Ordinance.

SECTION 21.10 PROPERTY SURVEYS

If the Zoning Administrator in the performance of his or her duties under this Ordinance (or the Planning Commission, Zoning Board of Appeals, and Township Board pursuant to their zoning review and approval powers under this Ordinance) shall deem it necessary that a survey be done by a professional surveyor or engineer for any property at issue (including a written drawing and stakes set on the property boundaries or corners) in order to ensure that all requirements of this Ordinance will be met, the survey and related information may be required by the Township and shall be paid for and provided by the property owner or applicant and no building permit or other Township permit(s) shall be issued or approved until and unless the survey and related information has been provided to the Township.

SECTION 21.11 EXPIRATION OF A ZONING APPROVAL

If a zoning approval under this Ordinance has been granted with a specific time limit and the use has not commenced or substantial construction has not begun pursuant to that approval within the time limit specified, the zoning approval shall automatically expire (and be void) at the end of that time limit. No extension to that time limit shall be granted except by the Township body, commission, or official which granted the initial zoning approval. If a zoning approval is silent with regard to a time limitation, the time limitation shall be deemed to be one (1) year, and the zoning approval shall expire (and be void) after one (1) year if the use has not been commenced or substantial construction has not begun within said one (1) year time limitation. Unless expressly prohibited by this Ordinance, a time extension may be granted by the body, commission, or official which granted the initial zoning approval.

SECTION 21.12 PUBLIC NOTICES - PUBLICATION, MAILING, AND DELIVERY

Except where expressly stated otherwise in this Ordinance, whenever a public hearing on a zoning application or matter is required by this Ordinance or by the Zoning Act, notice of the public hearing shall be published and delivered in accordance with the requirements of this Section.

- A. The notice shall be published once, at least 15 days prior to the date of the public hearing, in a newspaper of general circulation in the Township.
- B. For applications involving the rezoning of ten (10) or fewer adjacent properties; for applications to the Zoning Board of Appeals involving a specific parcel; for all planned unit development and special land use applications and for any other matters requiring a public hearing under this Ordinance, a notice of public hearing shall be mailed by way of U.S. first class mail or be personally delivered to the following persons, at least 15 days prior to the date of the public hearing:

- 1. The applicant (and the owner of the property if different);

2. All persons to whom real property is assessed for property tax purposes within 300 feet of the property that is the subject to the application; and
3. The occupants of all structures within 300 feet of the property that is the subject of the application.

If the above-described 300-foot radius extends outside of the Township's boundaries, then notice must be provided outside of the Township boundaries, within the 300-foot radius, to all persons in the above-stated categories. C. The notice of public hearing shall include the following information:

1. A description of the nature of the application or request.
2. An identification of the property that is the subject of the application or request. The notice shall also include a listing of all existing street addresses within the property; provided, however, that street addresses do not need to be created and listed if no such addresses currently exist within the property; and provided further that street addresses do not need to be listed if eleven (11) or more adjacent properties are being proposed for rezoning.
3. A statement of where and when the application or request will be considered and the public hearing held.
4. Indicate where and when written comments will be received concerning the application or request.

SECTION 21.13 PROOF OF OWNERSHIP

The Zoning Administrator or Building Inspector may require proof of ownership from an applicant (including copies of a recorded deed or land contract) before issuance of a zoning compliance permit or a building permit if it appears that the applicant may not be the owner (or sole owner) of the property involved. The Township may also require that all owners of a particular property join in and sign the application or applications for any zoning or building request or application, including a building permit, variances, special use requests, site plan review, zoning compliance permits, and any other zoning or building code action.

SECTION 21.14 CONDITIONAL REZONING

A. Intent. 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 proposed by a property owner as part of a request for a rezoning. It is the intent of this Section to provide a process consistent with the provisions of the Zoning Act by which a landowner seeking a rezoning may

voluntarily propose conditions regarding the use and/or development of land as part of the rezoning request. B. Application and Offer of Conditions.

1. An owner of land may voluntarily offer in writing one or more 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.
2. 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.
3. The landowner's offer of conditions may not purport to authorize uses, activities, structures, items, or developments not allowed in the requested new zoning district or otherwise by this Ordinance.
4. Any use or development proposed as part of an offer of conditions for a rezoning 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 also approved by the Township in accordance with the provisions of this Ordinance.
5. Any use or development proposed as part of an offer of conditions for a rezoning 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 also approved by the Zoning Board of Appeals in accordance with the provisions of this Ordinance.
6. Any use or development proposed as part of an offer of conditions for a rezoning 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 also approved in accordance with the provisions of this Ordinance.
7. The offer of conditions may be changed during the process of rezoning consideration provided that any changed or additional conditions are entered or agreed to voluntarily by the landowner. A landowner may withdraw all or part of its offer of conditions at any time prior to final rezoning action by the Township Board, provided that if such withdrawal or change occurs after the Planning Commission's public hearing on the original rezoning request, then the rezoning application shall be referred back to the Planning Commission for a new public hearing with appropriate notice and a new recommendation by the Planning Commission.

- C. **Planning Commission Review.** The Planning Commission, after public hearing and consideration of the factors for rezoning set forth in this Chapter, may recommend to the Township Board 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 landowner.
- D. **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 this Chapter. Should the Township Board consider changes to the proposed conditional rezoning advisable and if such contemplated changes to the offer of conditions are acceptable to and thereafter offered by the landowner, then the Township Board may refer such changes back to the Planning Commission for a report thereon by the Planning Commission within a time specified by the Township Board and the Township Board may proceed thereafter in accordance with the Zoning Act to deny or approve the conditional rezoning with or without changes.
- E. **Approval.**
1. If the Township Board approves the rezoning request with conditions from the offer of conditions, the offered conditions shall be incorporated into a formal written Statement of Conditions (or equivalent document) acceptable to the landowner and the Township and which document also conforms 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/ordinance amendment adopted by the Township Board to accomplish the requested rezoning.
 2. The Statement of Conditions shall:
 - a. Be in a form recordable with the Muskegon County Register of Deeds or, in the alternative (and if acceptable to the Township), be accompanied by a recordable Affidavit or Memorandum prepared and signed by the landowner giving notice of the Statement of Conditions in a manner acceptable to the Township Board.
 - b. Contain a legal description of the land to which it pertains.
 - c. Contain a statement acknowledging that the Statement of Conditions runs with the land and is binding upon both the current landowner and all successor owners, creditors, etc., of the land.
 - d. Incorporate by attachment or reference any diagram, plans or other documents 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.

- e. Contain a statement acknowledging that the Statement of Conditions or an Affidavit or Memorandum giving notice thereof

may be recorded by the Township with the Muskegon County Register of Deeds.
 - f. 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 and have full authority to so bind the land.
- 3. Upon the rezoning taking effect, the Township's 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 if such alternative is approved by the Township) shall be filed by the Township with the Muskegon County Register of Deeds. The Township Board shall have the authority to waive this requirement at its discretion 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 the Township or to any subsequent purchaser or 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, structures, and development within the new zoning district as modified by any more restrictive provisions contained in the Statement of Conditions. F. Compliance with Conditions.
 - 1. Any person who establishes a development or commences or continues a use upon land that has been rezoned with conditions shall continuously operate and maintain the development, land, structures, and use in full compliance with all of the conditions set forth in the Statement of Conditions as well as this Ordinance. Any failure to comply with a condition contained within the Statement of Conditions shall constitute a violation of this Zoning Ordinance and shall be punishable accordingly. Additionally, any such violation shall be deemed a nuisance per se and subject to judicial abatement as provided by law.

2. No permit or approval shall be granted under this Ordinance (or any other ordinance of the Township) for any use, structure, or development that is contrary to an applicable Statement of Conditions.
- G. Time Period for Establishing Development or Use. Unless another time period is specified in the ordinance/ordinance amendment rezoning the subject land, the approved development and/or use of the land must be substantially commenced upon the land within one year 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 its Statement of Conditions incompatible with other zones and uses in the surrounding area or otherwise be inconsistent with sound zoning policy.
- H. Reversion of Zoning. If the approved development and/or use of the rezoned land does not occur within the time frame specified under Subsection G above, then the land shall revert to its former zoning classification as set forth in MCL 125.3405, as amended. The reversion process shall be initiated by the Township Board requesting that the Planning Commission proceed with consideration of rezoning of the land back 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. Such reversion shall also occur if any condition or requirement in the Statement of Conditions is violated.
- I. 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 Subsection H above or otherwise, the Statement of Conditions imposed under the former zoning classification shall cease to be in effect, unless the Township Board deems certain conditions still relevant and binding, in which case any such conditions shall remain effective. Upon the landowner's written request, the Township Clerk shall record with the Muskegon County Register of Deeds a notice that the prior Statement of Conditions (or portions thereof) is no longer in effect if, in fact, that is the case.
- J. Amendment of Conditions.
 1. During the time period for commencement of an approved development or use specified pursuant to subsection G above or during any extension thereof granted by the Township Board, 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.
- K. Township Right to Rezone. Nothing in the Statement of Conditions nor in the provisions of this Section shall be deemed or construed to prohibit the Township from rezoning all or any portion of land that is subject to a Statement of Conditions to another zoning classification at any time. Any rezoning shall be conducted in compliance with this Ordinance and the Zoning Act.
- L. Failure to Offer Conditions. The Township shall not require a landowner to offer conditions as a requirement for rezoning. The lack of an offer of conditions shall not affect a landowner's rights under this Ordinance.

SECTION 21.15 DAMAGE DURING CONSTRUCTION

During the construction process, both the owner of the property involved and the contractor doing the work shall be jointly and severally responsible and liable for any damage to roads, damage to other properties, littering, flooding, or other damage or casualty caused by or attributable to such construction. No construction or supply equipment or other equipment or vehicles associated with construction on a particular property shall block roads or present a safety hazard. The Zoning Administrator shall have the authority to suspend or revoke a zoning compliance permit should the requirements of this section be violated. No such suspended or revoked zoning compliance permit shall be reinstituted until the property owner posts monetary security with the Township as determined by the Zoning Administrator.

SECTION 21.16 CONDITIONS

Reasonable conditions may be attached to any zoning compliance permit or other zoning approval by the body or Township official involved. Conditions may include, but are not limited to, conditions necessary to ensure that public services and facilities affected by the proposed land use, structure, building, or activity will be capable of accommodating increased service and facility loads caused by the land use, structure, building, or activity, measures to protect the natural environment and conserve natural resources and energy, conditions to ensure compatibility with adjacent uses of land, restrictions to ensure compatibility with this Ordinance and the Township Master Plan, and measures to promote the use of land in a socially and economically desirable manner. Any conditions imposed shall be recorded in the zoning approval or permit and shall remain unchanged except upon the mutual express and written consent of the Township body or official involved and the landowner. Violation of a condition also constitutes a violation of this Ordinance.

SECTION 21.17 REVOCATION OF A ZONING APPROVAL

If any condition or requirement of any zoning approval or permit granted by the Zoning Administrator, Zoning Board of Appeals, Township Board, or Planning Commission is violated and such violation continues despite at least one prior written warning letter to the then-owner of the property involved (as shown on the current Township property tax records), the Zoning Administrator, Zoning Board of Appeals, Township Board, or Planning Commission may revoke the zoning approval after having held a public hearing and the then-landowner having had at least ten (10) days' prior notice of the hearing via a written hearing notice sent to the landowner's last known address (as listed in the Township's property tax records). Such revocation is in addition to any other enforcement actions or remedies available to the Township.

SECTION 21.18 RIGHTS AND REMEDIES

The rights and remedies provided herein are cumulative and in addition to other remedies provided by law.

SECTION 21.19 SEVERABILITY

This Ordinance and the various Chapters, sections, paragraphs, and clauses thereof, are hereby declared to be severable. If any Chapter, section, paragraph, or clause is adjudged unconstitutional or invalid, it is hereby provided that the remainder of the Ordinance shall not be affected thereby.

SECTION 21.20 GENERAL RESPONSIBILITY

The Township Board or its duly authorized representative(s) are hereby charged with the duty of enforcing this Ordinance and the Township Board (or its designee) is hereby empowered, in the name of White River Township, to commence and pursue any and all necessary and appropriate actions and/or proceedings in the Circuit Court of Muskegon County, Michigan, or any other Court having jurisdiction, to restrain and/or prevent any noncompliance with or violation of any of the provisions of this Ordinance, and to correct, remedy and/or abate the noncompliance or violation. And it is further provided that any person aggrieved or adversely affected by the noncompliance or violation may institute suit and/or join the Township Board in a suit to abate the violation to the extent allowed by Michigan law.

SECTION 21.21 ENACTMENT

The provisions of this Ordinance are hereby declared to be immediately necessary for the preservation of the public peace, health, safety, and welfare of the people and are hereby ordered to become effective upon the expiration of seven (7) days following publication of a "Notice of Ordinance Adoption" in a newspaper circulating within White River Township. The effective date of this Zoning Ordinance is _____, 2019.

SECTION 21.22 REPEAL

When this Ordinance (and the accompanying Zoning Map) become effective, the prior zoning ordinance and applicable zoning map shall be deemed repealed and replaced by this Ordinance (and the accompanying Zoning Map).

10948 (001) 449072.1