

# **CHARTER TOWNSHIP OF GARFIELD**

Grand Traverse County, Michigan

## **ZONING ORDINANCE**

Ordinance No. 68

Effective: May 25, 2015

Reflecting Amendments through February 18, 2024

Charter Township of Garfield

3848 Veterans Drive

Traverse City, MI 49684

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# ARTICLE 1

## GENERAL PROVISIONS

### SECTION 100 PURPOSE

This ordinance is designed to implement and be consistent with the goals, objectives, policies, and strategies of the adopted master plan through complete, integrated, effective, and concise land development regulations.

- The zoning and land-use regulations set forth in **ARTICLE 2, Definitions**, and **ARTICLE 3, Zoning**, of this ordinance promote the public health, safety, morals, or general welfare of the state, the region, and the local government, and protect and preserve places and areas of historical, cultural, architectural, or environmental importance and significance.
- The subdivision regulations set forth in **ARTICLE 4, Procedures**, and **ARTICLE 5, Development Standards**, of this ordinance promote the health, safety, morals, or general welfare of the local government and the safe, orderly, and healthful development of the local government, taking into account all factors both on and off the site of the subdivision. The processing procedures set forth in **ARTICLE 4** consolidate regulations governing the processing of approvals for the development of land. They ensure that notification and procedures comply with state law, provide ample opportunity for public participation in the land development process, provide for the efficient and timely processing of development approvals, and promote the readability of the document for the general public and for applicants requesting development approvals. The development standards in **ARTICLE 5** consolidate the substantive standards relating to the issuance of development approvals for zoning and subdivision approval in order to provide clarity and certainty in the development approval process.
- **ARTICLE 6, General Use Regulations**, of this ordinance establishes specific standards and exceptions to standards, for certain uses, structures, and facilities.
- **ARTICLE 7, Supplemental Use Regulations**, of this ordinance provides specific development standards for designated uses. These establish supplemental conditions that protect the public while establishing predictable standards for the applicant.
- **ARTICLE 8, Nonconformity**, of this ordinance protects legal nonconforming uses and vested rights in accordance with state and federal decisional and statutory law.
- **ARTICLE 9, Submittal Requirements**, of this ordinance provides standards for Application submittal requirements to provide guidance to applicants in the submittal of development approval applications, to avoid the unnecessary expenditure of public resources for the processing of incomplete applications, and to avoid unnecessary delay in the approval of applications for development approval.
- **ARTICLE 10, Administration**, of this ordinance establishes various administrative agencies involved in the development approval process, as well as the role of administrative and legislative bodies.
- **ARTICLE 11, Legal Status**, establishes the validity and severability of the ordinance.

## **SECTION 101 CITATION**

This ordinance shall be known and may be cited as the Charter Township of Garfield Zoning Ordinance of 2015.

## **SECTION 102 AUTHORITY**

This ordinance is authorized by the following statutes:

- Charter Township Act, Public Act 359 of 1947
- Michigan Planning Enabling Act, Public Act 33 of 2008
- Joint Municipal Planning Act, Public Act 226 of 2003
- Michigan Zoning Enabling Act, Public Act 110 of 2006
- Land Division Act, Public Act 288 of 1967
- Condominium Act, Public Act 59 of 1978

## **SECTION 103 APPLICABILITY**

This article applies to all buildings, structures, lands, and uses over which the township has jurisdiction under the constitution and law(s) of the State of Michigan and of the United States.

## **SECTION 104 CONSISTENCY WITH MASTER PLAN**

This ordinance is consistent with the adopted master plan. Any amendments to this ordinance, including, but not limited to, zoning map amendment (rezoning) approval pursuant to Article 4, Procedures, of this ordinance, and all development approvals, should consider the following:

- A. The adopted master plan, as it may be amended from time to time, in effect at the time of the request for amendment; and
- B. Any neighborhood, area, or specific plan adopted.

An amendment to the text of this ordinance is consistent and in accordance with the master plan if it complies with the goals, objectives, policies, and strategies and any vision statement contained in the master plan.

## **SECTION 105 COORDINATION WITH OTHER REGULATIONS**

### **A. Generally**

The use of buildings and land within the township is subject to all other regulations as well as this ordinance, whether or not such other provisions are specifically referenced in this ordinance. References to other regulations or provisions of this ordinance are for the convenience of the reader. The lack of a cross-reference does not exempt a land, building, structure, or use from other regulations.

### **B. Zoning**

If a regulation adopted by this ordinance requires a greater width or size of a yard, court, or other open space; requires a lower building height or fewer number of stories for a building; requires a greater percentage of lot to be left unoccupied; or otherwise imposes higher standards than those required under another statute or local ordinance or regulation, the regulation adopted under this ordinance controls. If the other statute or local ordinance or regulation imposes higher standards, that statute, ordinance, or regulation controls.

### **C. Rules of Construction**

- (1) Interpretation and application of this ordinance are the basic and minimum requirements for the protection of public health, safety, comfort, morals, convenience, prosperity, and welfare. This



ordinance shall be liberally interpreted in order to further its underlying purposes. The meaning of any and all words, terms, or phrases in this ordinance shall be construed in accordance with **ARTICLE 2**, of this ordinance.

- (2) This ordinance contains numerous graphics, pictures, illustrations, and drawings in order to assist the reader in understanding and applying this ordinance. However, to the extent that there is any inconsistency between the text of this ordinance and any such graphic, picture, illustration, or drawing, the text controls unless otherwise provided in the specific section.

#### **SECTION 106 DEVELOPMENT APPROVALS**

No development activity shall occur on any property within the jurisdiction of this ordinance until an applicable development approval for the activity has been granted (refer to **ARTICLE 4**, Procedures, of this ordinance).

#### **SECTION 107 CONSULTANT REVIEW**

In the course of reviewing any application, the Township may determine that outside consulting services such as, but not limited to, legal, planning, engineering, traffic and environmental services, are required. Such determination shall be made by the Zoning Administrator, Director of Planning or the Planning Commission at the earliest possible time based upon available information. The revelation of information during the review process shall not preclude the approval authority from halting proceedings at any time and requiring that escrow funds, in an amount determined by the approval authority to be necessary to complete a full and proper review of an application, be deposited with the Township.

#### **SECTION 108 CONCURRENT APPLICATIONS PROHIBITED**

Any procedure requiring review pursuant to Article 4 of this Ordinance shall be permitted one pending application, per parcel or parcels under the same ownership, at a time. Concurrent applications for review pursuant to Article 4 shall be prohibited.

## ARTICLE 2 DEFINITIONS

### SECTION 200 RULES APPLYING TO THE TEXT

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

- (1) Words used in the present tense include the future tense; and the singular includes the plural unless the context clearly indicates the contrary.
- (2) The term “shall” is always mandatory and not discretionary; the word “may” is permissive.
- (3) The words “used or occupied” as applied to any land or building shall be construed to include the words “intended, arranged, or designed to be used or occupied”.
- (4) Any word or term not interpreted or defined by this Article shall be used with a meaning of common or standard utilization.

### SECTION 201 GENERAL DEFINITIONS

For purposes of this Ordinance, certain terms or words used herein shall be interpreted or defined as follows:

Accessory Building: See “Building, Accessory”

Accessory Use: A use customarily incidental and subordinate to the principal use or building located on the same lot as the principal use or building, and where such accessory use is at no point more than fifty percent (50%) of the total activity on the site.

Addition: A completely new structure or new component to an existing structure.

Adequate Public Facility: A public facility or system of facilities that has sufficient available capacity to service the physical area and designated intensity and use of development at adopted specified levels of service.

Administrative Decision: A decision on a development approval application rendered by an administrative official that does not require legislative, administrative, or quasi-judicial discretion and unless specifically stated is not subject to a public hearing.

Adult Foster Care, Family Home: A state licensed private residence with the approved capacity to receive at least 3 but not more than 6 adults to be provided with foster care for 5 or more days a week and for 2 or more consecutive weeks.

Adult Foster Care, Small Group Home: A state licensed adult foster care facility with the approved capacity to receive at least 3 but not more than 12 adults to be provided with foster care for 5 or more days a week and for 2 or more consecutive weeks.

Adult Foster Care, Large Group Home: A state licensed adult foster care facility with the approved capacity to receive at least 13 but not more than 20 adults to be provided with foster care for 5 or more days a week and for 2 or more consecutive weeks.

Adult Foster Care Facility: A state licensed facility which provides supervised personal care to unrelated, non-transient, adult individuals, not specified elsewhere in this Ordinance and including an adult foster care congregate facility with the approved capacity to receive more than 20 adults to be provided with foster care for 5 or more days a week and for 2 or more consecutive weeks, nursing home, convalescent home, home for the aged, or any similar care facility.

Agricultural Operation: See “Farm Operation”

Airport or Airfield: A facility regulated by the Federal Aviation Administration (FAA) and designed for the takeoff and landing of aircraft and any other associated activities.

Airport Critical Zone: The clear zone approach-departure clearance surface and the transitional surface.

Airport Inner Horizontal Surface Area: The area surrounding the airport for a distance of three miles, excluding the clear zone surface, transitional surface and airport approach-departure clearance surface.

Airport Outer Horizontal Surface: The airport hazard area less the critical zone area beyond a three mile distance of the Inner Horizontal Surface area to the outer boundary of the Airport Overlay Zone District.

Airport Overlay Zone District: The Airport Overlay Zone District is the airport hazard area consisting of all of the lands within Garfield Township lying beneath the approach, transitional, 149 feet horizontal conical and 500 foot horizontal surface; said land being located within a circle having a radius extending horizontally (6.32 miles) from the established center of the useable landing area of the airport.

Alley: Any dedicated public or private way, other than a street or a joint driveway, which functions primarily as a service corridor and which provides only a secondary means of access to abutting property and is not intended for general traffic circulation.

Alteration: Any modification, addition, or change in construction or type of occupancy, any change or rearrangement in the structural parts of a building; any enlargement of a building, whether by extending a side or by increasing in height; or the moving from one location to another.

Amendment: Any change to the districts of the zoning map (rezoning) or text of this ordinance, master plan, sub area plan, or similar adopted plans or development approval.

Apartment: A room or suite of rooms, including bath and kitchen facilities, located in an accessory structure or in a two-family or multiple-family dwelling intended or designed for use as a non-transient residence by a single family.

Appeal: An appeal to the Zoning Board of Appeals or designated body where it is alleged that there is an error in any order, requirement, decision, or determination made by an administrative official in the enforcement of this Ordinance.

Approval Authority: Any Board, Commission, or administrative official tasked with rendering a final decision on an application.

Assisted Living Facility: See “Adult Foster Care Facility”

Auditorium or Assembly Hall: An indoor space for large group events or meetings, including theaters.

Automobile Dealership: See “Vehicle Dealership, with Outdoor Sales” and “Vehicle Dealership, without Outdoor Sales”

Automobile Showroom: See “Vehicle Dealership, without Outdoor Sales”

Bar, Tavern, or Night Club: An establishment where alcoholic and other beverages are prepared, served, and consumed, mostly within the principal building, and which may also offer food service to customers. For purposes of this Ordinance, “Restaurant” is defined separately.

Bed and Breakfast: A private residence that offers sleeping accommodations to transient tenants, is the innkeeper’s residence in which the innkeeper resides while renting the rooms to transient tenants and serves breakfast at no extra cost to its transient tenants.

Berm: A mound of earth rising to an elevation above the ground of a parcel, which contributes to an opaque screening.

Best Management Practices: Effective integration of storm-water management systems, with appropriate combinations of landscape conservation, enhancement, structural controls, impervious cover, schedules of activities, prohibitions of practices, maintenance procedures, and other management practices that provide an optimum way to convey, store, and release run-off, in order to reduce peak discharge, remove pollutants, and enhance the environment. Best management practices may include any practices adopted by the Township, or other local, State, and Federal agencies.

Board of Appeals: Garfield Township Zoning Board of Appeals.

Boarding Residence: An owner-occupied residence where non-related individuals are provided with room and board on a long-term basis.

Boardman River Valley Environment Area: Includes those areas of the Township which because of elevation, soil, vegetation type and water table are directly influenced by any fluctuations, course changes or flooding of the river including:

1. lands below 600.0 feet above sea level, lying between the south city limits of Traverse City and the east-west half section line of Sections 22 and 23.
2. lands below 620.0 feet above sea level lying between the east-west half Section line of Sections 22 and 23 and Cass Rd, and
3. lands below 640.0 feet above sea level lying between Cass Rd and the south Township boundary.

Boat Livery: A boat livery is hereby defined and declared to be any structure, site or tract of land utilized for the storage, servicing or rental of boats which may include the sale of hunting and/or fishing tackle, equipment, boats, etc.

Bond: Any form of a surety bond in an amount and form satisfactory to the reviewing authority. Bonds may require review and approval by the Garfield Township attorney whenever a bond is required by these regulations.

Brew Pub: A facility as defined by the State of Michigan Liquor Control Code (Act 58 of 1998, MCL 436.1101 et seq.)

Buffer Yard: A greenbelt area that is long and parallel to a property line within which no structures, driveways, parking, signs, or other such uses may be located unless specifically permitted by this Ordinance. A yard area occupied by plant materials, fences, or other landscape devices designed to effectively mitigate to a substantial degree the negative impact which occurs between conflicting land uses and major thoroughfares.

Building: Any structure, either temporary or permanent, having a roof and used or built for the shelter or enclosure of persons, animals, chattels, or property of any kind. This shall include tents, awnings and vehicles situated on private property and used for purposes of a building, whether mounted on wheels or not.

Building, Accessory: A subordinate building or structure on the same lot with a principal or main building, or the part of the main building occupied by or devoted exclusively to an accessory use.

Building Area: The buildable area of a lot or designated building envelope and other areas of a project site which have not been designated as permanent open space, areas to be used for project infrastructure, or other site improvements, etc.

Building Elevation: The entire view of any building or other structure from any one of four sides showing features, such as construction materials, design, height, dimensions, windows, doors, other architectural features, and the relationship of grade to floor level.

Building Footprint: The horizontal area measured within the outside of the exterior walls of the ground floor of the main structure.

Building, Height of: The vertical distance measured from the mean elevation of the finished grade line of the ground about the front of the building to the highest point of the roof or parapet for flat roofs; to the deck line of mansard roofs; and to the mean height level between eaves and ridge of gable, hip and gambrel roofs.

Building Line: That portion of a site defined by the minimum front, side, and rear yard setbacks within which no building or structure may be located.

Building, Principal: A building in which is conducted the main or principal use of the lot on which it is located.

Building, Semi-Detached: See "Dwelling, Two-Family (Duplex)"

Bus Shelter: A roofed structure with at least three walls located on or adjacent to the right-of-way of a street, and which is designed and used primarily for the protection and convenience of bus passengers.

Business College or Trade School: An educational institution generally focusing on instruction in vocational education, including skilled trades and manufacturing, and allowing for hands-on and direct learning opportunities.

Business Service Establishment: See "Service Establishment, Business"

Caliper: A tree's trunk or stem diameter in inches, measured according to the standards of the American Standard for Nursery Stock.

Campground or Travel Trailer Park: Any parcel or tract of land under the control of any person wherein sites are offered for the use of the public or members of an organization, either free of charge or for a fee, for the establishment of temporary living quarters for five (5) or more recreational units, including travel trailers and recreational vehicles.

Canopy Tree, Small: A deciduous tree with a mature height of no more than 30 feet at maturity.

Canopy Tree, Medium: A deciduous tree with a mature height of more than 30 feet and less than 40 feet at maturity.

Canopy Tree, Large: A deciduous tree with a mature height of more than 40 feet at maturity.

Carport: A covered space for the housing or storage of motor vehicles and enclosed on not more than two sides by walls.

Car Wash: A facility designed to allow for users to clean their vehicles through either self-service or automatic options.

Catering Establishment: A commercial kitchen facility where food is cooked and prepared for people to consume at a different site.

Cemetery: Any site containing at least one burial, marked or previously marked, dedicated to and used or intended to be used for the permanent interment of the human dead, including perpetual care and nonperpetual care cemeteries.

Cellar: A story having more than one-half (1/2) of its height below the average finished level of the adjoining ground. A cellar shall not be counted as a story for the purpose of height measurement in stories.

Child Care Center: A facility, other than a private residence, receiving one (1) or more preschool or school age children for care for periods of less than twenty-four (24) hours a day, and where the parents or guardians are not immediately available to the child. Child care center or day care center includes a facility that provides care for not less than two (2) consecutive weeks, regardless of the number of hours of care per day. The facility is generally described as a child care center, day care center, day nursery, nursery school, parent cooperative preschool, play group, or drop-in center. Child care center or day care center does not include any of the following:

1. A Sunday school, a vacation bible school, or a religious instructional class that is conducted by a religious organization where children are in attendance for not more than 3 hours per day for an indefinite period, or not more than 8 hours per day for a period not to exceed 4 weeks during a 12-month period.

2. A facility operated by a religious organization where children are cared for not more than 3 hours while persons responsible for the children are attending religious services

Child Care, Family Home (<7): A private home in which one (1) but not more than six (6) minor children are received for care and supervision for periods of less than twenty-four (24) hours a day, unattended by a parent or legal guardian, except children related to an adult member of the family by blood, marriage, or adoption.

Child Care, Small Group Home (7-12): A private home in which more than seven (7) but not more than twelve (12) minor children are given care and supervision for periods of less than twenty-four (24) hours a day unattended by a parent or legal guardian, except children related to an adult member of the family by blood, marriage, or adoption.

Clinic: See “Medical Office, Clinic” and “Medical Office, Surgical Center”

Cluster Zoning: A zoning technique where the maximum number of dwelling units on a site is determined by density levels instead of minimum lot size.

Commercial District Housing Development: A residential development in a commercial district which includes elements that contribute to the function of the development as a cohesive site, such as design elements and common open space, or where a livable space is incorporated into an approved commercial business or office such as an upper floor apartment.

Comprehensive Development Plan: A plan for a large development site, such as a shopping center in the C-P district or a community park in the P-R district, which describes the development patterns, features, phases, and connectivity of all facets of the development.

Common Element: Any portion of the condominium project other than the condominium units.

Common Element, General: Any element of the condominium project owned in common by all co-owners and intended for common use or necessary to the existence, upkeep, and safety of the project.

Common Element, Limited: Any common element, reserved in the master deed of a condominium project, for the exclusive use of less than all of the co-owners.

Common Land: A parcel or parcels of land together with improvements thereon, the use, maintenance, and enjoyment of which are intended to be shared by the owners and occupants of the individual building units in a planned unit development.

Condominium Act: Public Act 59 of the Public Acts of 1978, as amended.

Condominium Document: The master deed and any other instrument referred to in the master deed or bylaws which affects the rights and obligations of a co-owner in the condominium.

Condominium, Expandable: A condominium project to which additional land may be added pursuant to express provision in the condominium documents and in accordance with the condominium documents and the condominium regulations of the Zoning Ordinance and the Condominium Act.

Condominium Project: A plan or project consisting of not less than two (2) condominium units established in conformance with the Condominium Act.

Condominium, Site: See "Site Condominium"

Condominium Subdivision Plan: Site, survey and utility plans, floor plans and sections as appropriately showing the existing and proposed structures and improvements including the location thereof on the land. The Condominium Subdivision Plan shall show the size, location, area, vertical boundaries, and volume for each unit comprised of enclosed air space. A number shall be assigned to each condominium unit. The Condominium Subdivision shall include the nature, location, and appropriate size of common elements.

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

Contiguous Lot: See "Lot, Contiguous"

Contractor's Establishment: A facility from which a service provider operates a business, including vehicle storage, material storage, office functions, and light manufacturing of products to be sold and used off-site (e.g. signage, lighting, etc.).

Courtyard: A multipurpose space, open and unobstructed to the sky, located at or above grade level on a lot, and bounded on three or more sides by the walls of a building.

Crematorium: A facility designed for the cremation of deceased persons or deceased household pets, through combustion or other methods. For the purposes of this Ordinance, "Incinerator" is defined separately.

Cul-de-sac: A street with only one outlet that terminates in a vehicular turnaround, having an appropriate terminal for the safe and convenient reversal of traffic movement.

Data Center and Computer Operation: A facility used to house computer systems and association components, such as telecommunications and storage systems.

Density: The number of dwelling units residing upon, or to be developed upon, a net acre of land. In the case of a PUD or similar multi-use development where various land uses are being proposed, densities shall be reviewed as an overall density and by individual use density within a lot area.

District: An area of land for which there are uniform regulations governing the use of buildings and premises, density of development, yard requirements and height limitations.

Drive-In Business: A business establishment that by design, physical facilities, service or by packaging procedure, encourages or allows customers to receive services, obtain goods, or be entertained while remaining in their motor vehicles on the site of the establishment. For the purposes of this Ordinance, a drive-in theater shall be considered under the definition of "Outdoor Entertainment Center, Major."



Drive-In Restaurant: A business establishment or portion hereof where food and/or beverages are sold in a form ready for consumption outside the confines of the building, often in a motor vehicle on the site of the establishment.

Drive-Through Business: A business establishment which by design, physical facilities, service or by packaging procedures, encourages or allows customers to receive services or obtain goods while remaining in their motor vehicles for use off the site of the establishment.

Drive-Through Restaurant: A business establishment or portion thereof where food and/or beverages are sold in a form ready for consumption outside the confines of the building, off the site of the establishment.

Driveway: A means of access for vehicles from a right-of-way to private property.

Driveway, Joint: A driveway, defined herein, providing access to two or more separate parcels used or intended to be used for commercial or industrial purposes.

Drip Line, Tree: An imaginary vertical line extending downward from the outermost tips of the tree branches to the ground.

Dry Cleaning Plant: A facility for the cleaning of garments, fabrics, draperies, etc. with any of various chemicals rather than water, with only accessory or no direct retail customer contact.

Dwelling: Any building or structure or part thereof which contains one (1) or more dwelling units. For the purposes of this Ordinance, "Mobile Home" and "Recreational Unit" are each defined separately.

Dwelling, Single-Family: A dwelling unit designed for exclusive occupancy by a single family that is not attached to any other dwelling by any means and is surrounded by open area or yards.

Dwelling, Multiple-Family: A dwelling or group of dwellings on one lot used or designed to contain separate living units for three (3) or more families, including triplex units, apartment houses, cooperatives, garden apartments and condominiums.

Dwelling, Two-Family (Duplex): A building containing two single family dwelling units totally separated from each other by an un-pierced, above ground, wall or floor and occupied exclusively by two (2) families living independently of each other.

Dwelling Unit: A building or portion thereof designed exclusively for residential occupancy by one (1) family and having cooking facilities.

Earth Change: Excavating, grading, re-grading, landfilling, berming, or diking of land.

Easement: Authorization by a property owner for another to use the owner's property for a specified purpose.

Environmental Impact Assessment: A process to examine the adverse on- and off-site environmental impacts to the ecosystem by a development project.

Essential Service Facility, Major: Any essential service facility as defined herein that is not a routine or minor essential service facility.

Essential Service Facility, Minor: An essential service facility as defined herein which is not typically regarded as imposing on, or detrimental to, neighboring property; including, but not limited to:

1. Underground utility facilities such as water mains, sewer mains and lift stations, electrical, gas, cable television and broadband distribution lines and associated structures, transformers, switches, and utility boxes.
2. Overhead pole-mounted electrical, telephone, cable television and broadband distribution lines and transformers, switches, utility boxes and other equipment associated with the services provided the height above grade of such facilities does not exceed the height restriction of the district.

For purposes of this Ordinance, both “Wireless Communication Facility” and “Wind Energy Conversion System” are defined separately.

Existing Building: A building existing or for which the foundations are in place or upon which there has been substantial work done prior to the effective date of this Ordinance or any amendment thereto.

Existing Use: A legal use of premises or buildings or structures actually in operation, openly, visibly and notoriously prior to the effective date of the Ordinance or any amendment thereto.

Exterior Storefront: A building wall and entryway which provides direct public access to a tenant's retail space from outside of the overall structure.

Family: (1) An individual, or two (2) or more persons related by blood, marriage or adoption, together with foster children and servants of the principal occupants, with not more than one additional unrelated person, who are domiciled together as a single, domestic, housekeeping unit in a dwelling unit, or (2) a collective number of individuals domiciled together in one dwelling unit whose relationship is of a continuing non-transient 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, lodge, coterie, organization or group of students or other individuals whose domestic relationship is of a transitory or seasonable nature or for an anticipated limited duration of a school term or other similar determinable period.

Family Day Care Home: See “Child Care, Family Home”

Farm: The land, plants, animals, buildings, structures, including ponds used for agricultural or aquacultural activities, machinery, equipment, and other appurtenances used in the commercial production of farm products, as described in the Michigan Right to Farm Act, Public Act 93 of 1981, as amended.

Farm Animal: Any animal raised or kept as part of a farm operation, including but not limited to:

- Livestock such as beef and dairy cattle, goats, hogs, horses, sheep, and other fur-bearing animals
- Poultry or fish

Farm Employees House: A dwelling for farm employees associated with the principal use of the property as an agricultural operation.

Farm Equipment: Mechanical equipment commonly used for farming operations including planting, cultivation, spraying, harvesting and storage operations, HOWEVER, excluding heavy earth moving or construction equipment used for short term construction purposes.

Farm Market: A farm market operated as a part of a farm operation, selling farm products produced on and off the proprietor's farm, not including roadside stands.

Farm Operation: The operation and management of a farm or a condition or activity that occurs at any time as necessary on a farm in connection with the commercial production, harvesting, and storage of farm products, as further described in the Michigan Right to Farm Act, Public Act 93 of 1981, as amended, including but not limited to:

1. Marketing produce at roadside stands or farm markets.
2. The generation of noise, odors, dust, fumes, and other associated conditions.
3. The operation of machinery and equipment necessary for a farm including, but not limited to, irrigation and drainage systems and pumps and on-farm grain dryers, and the movement of vehicles, machinery, equipment, and farm products and associated inputs necessary for farm operations on the roadway as authorized by the Michigan vehicle code, Act No. 300 of the Public Acts of 1949, being sections 257.1 to 257.923 of the Michigan Compiled Laws.
4. Field preparation and ground and aerial seeding and spraying.
5. The application of chemical fertilizers or organic materials, conditioners, liming materials, or pesticides.
6. Use of alternative pest management techniques.
7. The fencing, feeding, watering, sheltering, transportation, treatment, use, handling, and care of farm animals.
8. The management, storage, transport, utilization, and application of farm by-products, including manure or agricultural wastes.
9. The conversion from a farm operation activity to other farm operation activities.
10. The employment and use of labor.

Farm Product: Those plants and animals useful to man and including, but not limited to: forages and sod crops, grains, and feed crops, dairy and dairy products, poultry and poultry products; livestock, including breeding and grazing, fruits, vegetables, flowers, seeds, grasses, trees, fish, apiaries, equine and other similar products; or any other product which incorporates the use of food, feed, fiber or fur.

Fencing: The enclosure of an area by a structure of lumber, masonry, wire, or other material designed and marketed for constructing such an enclosure.

Financial Institution: Any federal or state- regulated business such as a bank, credit union, or savings and loan company which is designed to provide direct service to members of the public. For purposes of this Ordinance, an investment broker or investment company is included in the "Office" definition.

Financial Institution, with Drive-Through: Any financial institution located on a site with one or more drive-through lanes for servicing customers.

Financial Institution, without Drive-Through: Any financial institution located on a site without any drive-through service lanes.

Flag: Any fabric or other flexible material attached to or designed to be flown from a flagpole, light pole, or similar permanent device.

Flood Plain: The land area subject to inundation by the overflow of water resulting from a 100-year flood, which is a flood with a one percent (1%) chance of occurring in any given year.

Food Truck: A kitchen in a licensed and operable motor vehicle or trailer and with a temporary location on a site involving the preparation and sale of food to be consumed either on or off the premises, but not within the motor vehicle and/or trailer.

Full cut-off (Lighting Fixture): A fixture that allows no light emission above a horizontal plane through the fixture.

Game or Hunting Preserve, Commercial: A site which allows for-profit hunting operations.

Garage, Private: An accessory building or an accessory portion of a principal building designed or used solely for the storage of noncommercial motor vehicles owned and used by the occupants of the building to which it is accessory.

Gasoline Service Station: Any area of land, including any structures thereon, that is used or designed for the supply of gasoline, oil, or other fuel for the propulsion of vehicles. Permitted accessory uses may include any area or structure used or designed for polishing, greasing, washing, cleaning, or servicing such motor vehicles.

Glare: The sensation produced within the visual field by luminance that is sufficiently greater than the luminance to which the eyes are adapted, causing annoyance, discomfort or loss in visual performance and visibility.

Golf Course or Country Club: An outdoor recreation facility designed for enjoyment of golf, but not including stand-alone golf-driving ranges and miniature golf courses.

Grade, Finished: The completed surfaces of lawns, walks, and roads, brought to grades as shown on official plans or designs related thereto.

Greenbelt: A strip of land of definite width and location reserved for the planting of shrubs or trees to serve as an obscuring screen or buffer strip in carrying out the requirements of this Ordinance.

Greenhouse, Residential: An accessory building or structure to the principal residential use constructed chiefly of glass, glasslike or translucent material, which is devoted to the protection or cultivation of flowers, trees, shrubbery, or other vegetation and kept for personal enjoyment.

Greenhouse, Commercial: An accessory use to an approved commercial nursery or agricultural use of the property constructed chiefly of glass, glasslike or translucent material, which is devoted to the protection or cultivation of flowers, trees, shrubbery or other vegetation and kept for personal enjoyment or subsequent sale. (See Nursery, Retail)

Ground Cover: Low-growing, woody shrubs, deciduous or evergreen plants, perennial plants and/or vines, turf, shredded bark, wood chips or other similar mulch and landscaping stone.

Hazardous Substances and Polluting Material: Any substance or material in which the use, treatment, storage, and/or disposal of such material is regulated by State or Federal law, based on the capability of

such material to pose a risk to the health, safety, and welfare of the community and the environment by virtue of being toxic, hazardous, flammable, combustible, poisonous, radioactive, corrosive, or otherwise harmful. This definition shall include, but is not limited to, any substance or material which is designated as a hazardous chemical, flammable or combustible liquid, critical material, polluting material, hazardous waste product, hazardous substance, hazardous material, or other similar material by any local, State, or Federal agency.

Health Service: See “Medical Office, Clinic,” “Medical Office, Surgical Center,” and “Hospital”

High-Tech Research: See “Research and Design Facility”

Highway: See “Road, Highway”

Home Industry: A value added activity carried out as part of a farm operation located on the same property for the sale of goods in a farm market, such as small-scale canning operation for fruits or vegetables. For purposes of this Ordinance, commercial processing is not a home industry.

Home Occupation: Any non-intrusive activity of professional character carried out as an accessory use for gain by the owner or resident of the home and conducted in the residents dwelling unit. The owner or resident shall reside in the home, which is clearly for living purposes. For purposes of this Ordinance, “Bed and Breakfast” is defined separately.

Hospital: An institution which provides medical, surgical, emergency, and other health services to the public. For purposes of this Ordinance, “Medical Office, Clinic” and “Medical Office, Surgical Center” are each defined separately.

Hotel or Motel: A facility, building or group of buildings offering transient lodging accommodations to the public and which may include additional facilities and services such as restaurants, meeting rooms, entertainment, personal services and recreational facilities.

Intermittent Visual Obstruction: A screen having unobstructed openings interrupting visual contact and creating spatial separation.

Illumination: Light directed at a working surface or into a space to be illuminated.

Incinerator: A facility designed for the burning of solid waste, not including cremation of deceased persons or deceased household pets. For the purposes of this Ordinance, “Crematorium” is defined separately.

Indoor Entertainment Center: A commercial public amusement facility conducted entirely within a building, and including archery and firearms range, bowling alleys, billiard halls, laser tag, roller skating, golf range, and including their ancillary support services.

Industrial, Research, or Business Park: See “Research and Design Facility”

Interior Parking Lot Landscaping: Landscaping within a polygon having the least area, which can be drawn about a parking area or lot, exclusive of its access drives.

Institutional Use or Structure: Any land use or structure which serves the community's social, educational, and cultural needs, including but not necessarily limited to schools, libraries, places of worship, and governmental facilities, but not including health services.

Junk Yard: Any establishment or premise where worn out or discarded material is bought, kept, sold and/or stored; any premise upon which two (2) or more unlicensed used motor vehicles which cannot be operated under their own power are kept or stored for a period of fifteen (15) days or more shall be deemed to be a "junk yard" within the meaning of this Ordinance.

Keeping of Chickens, Personal: Any raising or keeping of chickens on residential property and not including the raising or keeping of chickens as part of a farm operation.

Keeping of Farm Animals: Any raising and keeping of farm animals as part of a farm operation.

Keeping of Horses, Personal: Any non-commercial keeping of horses for the personal use of the residents on a property, not including the raising or keeping of horses as part of a farm operation.

Kennel: Any lot or premises on which dogs, cats, or other household pets are kept for any commercial purposes, including but not limited to sale, boarding, breeding, and training.

Laboratory: See "Research and Design Facility"

Lake - Stream: A natural or artificial lake, pond or impoundment, a river, stream or creek, which may or may not be serving as a drain, or any other body of water which has definite banks, a bed and visible evidence of a continued flow or continued occurrence of water. For reference purposes, the general location of existing lakes or streams are graphically depicted on the Garfield Township Hydrology Map.

Lakes: Boardman Lake and Silver Lake.

Landscaping: Some combination of planted trees, vines, ground covers, flowers, or turf. In addition, the combination or design may include rock ground cover, earth mounds, and such structural features as fountains, pools, art works, screens, walls, fences, or benches.

Launching Ramp, Private: A space or structure from which a boat may be launched for use and benefit of the patrons of the waterfront marina or boat yard wherein said boats are berthed or docked.

Light Shield: An opaque box or other device, which eliminates or greatly diminishes glare.

Light Source: A light bulb or other source within a luminary.

Live-Work Unit: A dwelling unit which is an accessory use to a primary office, studio, or other similar commercial use, designed as an integral part of the building where the primary commercial use is at the ground floor entrance to the building, and where the occupant is either an owner or an employee of the office, studio, or other commercial use.

Livestock Auction Yard: A site where livestock animals are sold at auction.

Long-Term: In relation to the occupancy of a building or dwelling unit, any period of thirty (30) or more consecutive days.

Lot: A parcel of land defined by property lines or right-of-way lines, on which a principal use and its accessories are located or intended to be located together with any open spaces required by this Ordinance. A unit of land within a site condominium, which gives the owner exclusive rights to a building envelope where a building is placed and rights to the yard areas surrounding the building.

Lot, Contiguous: Any lots where at least one boundary line of one lot touches a boundary line or lines of another lot.

Lot, Corner: A lot, which has at least two (2) contiguous sides abutting upon two (2) or more streets at their intersection or two parts of the same street forming an interior angle of less than 135 degrees.

Lot Coverage: The percent of the lot, occupied by a building, including accessory buildings.

Lot, Depth of: The mean distances from the street line of the lot to its opposite rear line, measured in the general direction of the sidelines of the lot.

Lot, Flag: A lot that does not have the minimum width requirement of the zoning district in which it is located at the street frontage, where a narrow and unbuildable strip of land connects the buildable portion of the lot to a street or shared driveway.

Lot, Front of: The lot line, which is the front street line of the principal street or right-of-way providing access to the lot.

Lot, Interior: A lot other than a corner lot.

Lot, Line: The lines bounding a lot as hereby described.

Lot Line, (Zero): A condition requiring no (0) setback from a lot line as required for row housing, triplex and duplex structures, and other similar dwellings that are attached and situated on individual parcels for ownership purposes.

Lot of Record: A lot which is part of a subdivision, the map of which has been recorded in the office of the Register of Deeds in Grand Traverse County, or had been approved as a preliminary or final plat by the Township Board prior to the date of this Ordinance. Also, a lot described by metes and bounds, the deed or other conveyance to which has been recorded in the Office of the Register of Deeds in Grand Traverse County prior to the date of this Ordinance.

Lot, Width of: The width measured along the front lot line or street line or at the setback line of a curvilinear road or cul-de-sac.

Low Impact Design: A stormwater management practice intended to mimic a site's pre-development hydrology by using techniques which allow storm water runoff to infiltrate, filter, evaporate, and be retained close to its source in lieu of discharging to traditional large retention basins or storm sewers. Low Impact Design may be accomplished via an engineered system of bio-retention areas, rain gardens, wetlands, grass swales, permeable pavement, and similar methods. Low Impact Design standards may include standards adopted by the Township or other local, State, and Federal agencies.

Lumber Processing and Sawmill: A facility which receives and processes raw or partially finished lumber into a more finished form and including their accessory uses.

Luminaire: An outdoor lighting fixture.

Major Thoroughfare: See “Road, Major Thoroughfare”

Manufacturing: The act of processing, assembling, or fabricating raw or unfinished materials into a more complete or finished product.

Manufacturing, Light: The act of processing, assembling, or fabricating raw or unfinished materials into a more complete or finished product, and which have a relatively limited to moderate potential for adverse effect on surrounding properties and the environment, including noise, vibration, pollution, odor, and aesthetics.

Manufacturing, Heavy: The act of processing, assembling, or fabricating raw or unfinished materials into a more complete or finished product, and which have a greater potential for adverse effect on surrounding properties and the environment, including noise, vibration, pollution, odor, and aesthetics.

Manufactured Home: See “Mobile Home”

Marina: A commercial boat basin or dock with facilities for berthing and servicing all types of watercraft, and which may include providing supplies, provisions, service and fueling facilities.

Master Deed: The condominium document recording the condominium project to which is attached as exhibits and incorporated by reference, the approved by-laws for the project and the approved condominium subdivision plan for the project.

Master Plan: A statement of policy by the Township Planning Commission relative to the agreed-upon desirable physical pattern of future community development, consisting of a series of maps, charts, and written material that represents a sound conception of how the community should grow in order to bring about the very best community living conditions.

Mechanical Amusement Arcade: Any place, premises or that area occupied by or under the control of the operator of mechanical amusement devices, room or establishment in which a substantial and significant portion of the business is devoted to the operation of mechanical amusement devices, or in which more than five (5) mechanical amusement devices are located and available for operation. For the purposes of this Ordinance, a mechanical amusement arcade shall not include the following.

1. Mechanical amusement devices located in bars, taverns, cocktail lounges, and restaurants which are properly licensed by the State of Michigan when the devices are located to be an integral part of the operation and available only to tavern and restaurant patrons.
2. Mechanical amusement devices located in motels or hotels when the devices are generally available only to registered guests.
3. Vending machines dispensing food, drink, tobacco, toys, or written material, which material can be utilized away from the premises where the machine is located and does not require further participation by inserting the item or paying the price at the location of the machine.



4. Mechanical amusement devices located on property used solely for a residential purpose or a private club, and which device is not available for use by the general public, shall be exempt from this definition.

Mechanical Amusement Device: Any machine which upon the insertion of a coin, slug, token, plate or disk, or upon payment of a price, may be operated by the public generally for use as a game, entertainment or amusement, including but not limited to games registering a score, electronic video games, mechanical and/or electronic devices such as marble machines, pinball machines, mechanical grab machines, shuffle board game machines, pool tables, billiard tables, and all game operations or transactions similar thereto, whether operated by hand, electric power, or combination thereof. For the purposes of this Ordinance, a mechanical amusement device shall not include the following:

1. Juke box or other similar device, which plays only music for money.
2. Full-size bowling lane or alley.
3. Movie Theater seating more than ten (10) persons.

Medical Clinic: See “Medical Office, Clinic” and “Medical Office, Surgical Center”

Medical Marihuana: Marihuana as defined by the Michigan Medical Marihuana Act, MCL 333.26421 et seq. grown, used, or transferred for “medical use” as defined by the Michigan Medical Marihuana Act, MCL 333.26421 et seq.

Medical Marihuana Collective: means (a) any commercial use of property for the purpose of sale of medical marihuana for money or other consideration to registered qualifying patients or registered primary caregivers, or (b) any commercial business, commercial establishment or commercial structure that provides or rents space to multiple caregivers for storage and/or sale of Medical Marihuana. Medical Marihuana Collective includes uses commonly referred to as Medical Marihuana Dispensaries, Compassion Centers, Provisioning Centers and Medical Marihuana Cooperatives. The sale of Medical Marihuana where any other commodity, product or service is also available shall be considered a Medical Marihuana Collective.

Medical Marihuana Cultivation: A use where Medical Marihuana is grown by a primary caregiver or a qualifying patient as permitted by the Michigan Medical Marihuana Act, MCL 333.26421 et seq.

Medical Marihuana Cultivation Facility: A use where Medical Marihuana Cultivation, as defined by this ordinance, is being conducted on a lot, but shall not include a Medical Marihuana Collective.

Medical Marihuana Residential Cultivation: Medical Marihuana Cultivation undertaken by a primary caregiver, or a qualifying patient that has not specified a primary caregiver to cultivate marihuana for the qualifying patient, at the primary caregiver’s or qualifying patient’s primary place of residence.

Medical Office, Clinic: An establishment where human patients are admitted to be examined and treated by physicians, dentists, or other health care professionals and where no patients are lodged overnight.

Medical Office, Surgical Center: An establishment where human patients are for surgical procedures to be performed by physicians, dentists, or other health care professionals, with continuous medical services during surgical procedures and until the patient has recovered from the obvious effects of anesthetic and

at all other times with medical services available whenever a patient is in the facility, and which may also include the incidental overnight lodging of patients as an accessory use.

Metal Plating, Buffering, and Polishing: Any of the various industrial processes involved in improving metal products.

Micro Brewer: A person as defined and licensed by Michigan Liquor Control Code (Act 58 of 1998, MCL 436.1101 et seq.)

Microbrewery: A facility or facilities owned or controlled by a licensed Micro Brewer.

Mobile Home: A structure, transportable in one or more sections, which is built on a chassis and designed to be used as a dwelling with or without permanent foundation, when connected to the required utilities and includes the plumbing, heating, air- conditioning and electrical systems contained in the structure. Mobile home does not include a recreational unit.

Mobile Home Commission Act: means Act 96 of 1987, as amended.

Mobile Home Park: A parcel or tract of land under the control of a person upon which 3 or more mobile 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 mobile home.

Mobile Home Subdivision: A subdivision approved under Act 288 of the Public Acts of 1967, as amended, which by deed restrictions has been designated solely for occupancy by mobile homes.

Mortuary or Funeral Home: A building used for the preparation of the deceased for burial and the display of the deceased and rituals connected therewith prior to burial or cremation.

Nonconforming Use: A building, structure, or use of land existing at the time of enactment of this Ordinance, and which does not conform to the regulations of the District or zone in which it is situated.

Non-Use Variance: A dimensional variance to standards such as yard requirements, building height, lot coverage, living space dimensions and similar requirements. These variances are granted based on a showing of a practical difficulty.

Normal Stream or Riverbank: The bank or steep slope, which confines waters of a stream or river during normal periods of flow.

Nursery, Retail: The growing, cultivation, storage, and sale of garden plants, flowers, trees, shrubs, and fertilizers in an indoor setting, including limited outdoor storage & sales areas when approved by the Planning Commission. (See also Greenhouse, Commercial).

N.V.G.D.: National Vertical Geodetic Datum.

Office: A room, set of rooms, or building where the business operations of a professional, commercial, medical, institutional, investment broker or investment company, industrial, or other similar organization is conducted. For the purposes of this ordinance, "Financial Institution" is defined separately, and the term "Office" includes both principal and accessory units.

Off-Site Parking: A parking lot or structure that primarily serves the parking needs of another site.

Official Zoning Map: The map of all zoning districts and overlay districts, including but not limited to Airport overlays, that is on file with the Garfield Township clerk, and the Planning Department.

Open Space: A typically vegetative area designed, depending upon the particular situation, for environmental, scenic, or recreational enjoyment, but not including supplemental setback areas, parking areas, drainage basins, community septic systems, or areas within individual lots. Open space shall be consolidated and contiguous to the greatest extent reasonably possible to provide usable park-like areas.

Open Space Preservation: A development option intended to encourage and promote clustered development patterns in a manner that protects developable areas containing natural features and open space, in accordance with Section 506, Open Space Preservation, of the Michigan Zoning Enabling Act.

Outdoor Display: A designated outdoor area for the purpose of displaying items for sale associated with the primary use of the property.

Outdoor Entertainment Center, Major: A commercial public amusement facility conducted outside of an enclosed building and anticipated to have major impacts on surrounding properties including drive-in theaters, racetracks, driving ranges, and similar facilities.

Outdoor Entertainment Center, Minor: A commercial public amusement facility conducted outside of an enclosed building and anticipated to have minimal impacts on surrounding properties such as miniature golf courses, trampolines, or similar public amusements.

Outdoor Sales, Major: A primary land use where large items such as automobiles, trailers, boats, riding lawn mowers, tractors, off-road vehicles, other large, motorized equipment, and other similar items are sold outside of a completely enclosed building. For purposes of this Ordinance, "Sale of Prefabricated Structures" is defined separately.

Outdoor Sales, Minor: A primary land use where items such as plant material not grown on site, lawn furniture, playground equipment, garden supplies, and similar items are sold outside of a completely enclosed building.

Outdoor Sales, Temporary: An accessory event to an established business and intended to provide the business owner with the ability to sell inventory or goods outdoors on the property for a limited time. This type of sale is typically referred to as a tent sale and does not include transient sales or mobile food sales. Common events may include sidewalk sales, Christmas tree sales lots, revival tents, or other quasi-civic activities.

Outdoor Storage: The location of any goods, wares, merchandise, commodities, junk, debris, or any other item outside of a completely enclosed building for a continuous period longer than twenty-four (24) hours.

Outdoor Storage, Accessory Use: Any outdoor storage that is accessory to a principal use, including the storage of a travel trailer, camper, or other recreational vehicle on a residential site.

Outdoor Storage, Primary Use: Any outdoor storage that is the primary use of the parcel.

Overlay Zoning District: A district that is superimposed over one or more zoning districts or parts of districts and which imposes specified requirements in addition to those applicable in the underlying base zoning district.

Park, Mini: A small park or public space, generally less than one (1) acre in size, providing recreational opportunities for the non-exclusive use of residents of the surrounding neighborhood generally within a quarter mile of the site. Mini parks may include, but are not limited to, amenities such as small playgrounds, small open fields, gazebos, and benches.

Park, Neighborhood: A park or public space, generally between one (1) and ten (10) acres in size, which provides active and passive recreation opportunities for the non-exclusive use of residents generally within a half mile of the site. Neighborhood parks may include, but are not limited to, amenities such as playgrounds, open fields, picnic tables, small pavilions, gazebos, and benches.

Park, Community – Low Intensity: A park or public space, generally greater than ten (10) acres in size, which provides recreation opportunities for the entire community, and which are intended primarily for natural area preservation, passive recreation, or low intensity active recreation uses. These community parks may include, but are not limited to, amenities such as playgrounds, fields, picnic tables, gazebos, benches, or other similar uses and small structures.

Park, Community – High Intensity: A park or public space, generally greater than ten (10) acres in size, which provides recreation opportunities for the entire community. These parks may include some high intensity active recreation uses such as banquet or event centers, lodges, amphitheaters, athletic fields, pavilions, dog parks, disc golf courses, and other similar uses and structures.

Passenger Terminal: A facility such as a bus station allowing for people to access mass transit or other modes of transportation from a common node.

Person: Any natural person, corporation, partnership, joint venture, association (including homeowners' or neighborhood associations), trust, or any other entity recognized by law.

Personal Service Establishment: See "Service Establishment, Personal"

Pet Grooming Establishment: A facility offering the grooming of pets as a service, but where no pet sales or boarding takes place on the site.

Pet Shop: A building for the purchase of dogs, cats, birds, fish, and other small animals as pets and for pet care supplies, and where no boarding or grooming takes place on the site.

Planned Unit Development (PUD): A land area which has both individual building sites and common property, such as a park, and which is designated and developed under one (1) owner or organized group as a separate neighborhood or community unit.

Point of Light Source: A lighting source, direct, reflected, or refracted, which produces glare.

Pool: See "Swimming Pool"

Practical Difficulty: A situation whereby a property owner, through no fault of their own, cannot establish a "minimum practical" legal use of a legal lot or parcel, meeting all the dimensional standards of the zoning

district within which the lot is located. Situations occurring due to the owners desire to establish a use greater than the “minimum practical” standard or to enhance economic gain greater than associated with a “minimum practical” standard or created by an owner subsequent to the adoption date of this Ordinance is not a practical difficulty.

Principal Use: The primary or main use of land or structures, as distinguished from a secondary or accessory use.

Printing or Publishing Enterprise: Any business involving industrial production activities in printing, publishing, newspaper or print media production, photographic reproduction, blueprinting, and related trades and arts.

Processing Operation: Any variety of operations not otherwise identified within this Ordinance which result in material being made more useable in some form. For the purposes of the Zoning Ordinance, the term “processing” includes but is not necessarily limited to the physical manipulation of chemicals, food, liquids, metals, plastics, and textiles.

Professional Showroom: A facility intended to showcase examples of work in interior decorating, design, architecture, and similar fields without including retail operations at the facility.

Professional Studio: Performing arts, including sculpture, photo, music, painting, drama, dance, and similar pursuits.

Property Owner: An owner of any of the following:

- (i) A metes and bounds described parcel(s)
- (ii) A lot(s) in a platted subdivision, duly established under the provisions of the Land Division Act (MCL 560.101. et seq.)
- (iii) A condominium unit(s) in a condominium project duly established under the provisions of the Condominium Act (MCL 559.101, et seq.), or
- (iv) The holder of a lessee’s interest in any one of the foregoing which exceeds three (3) years in duration. In the event an owner’s interest as defined in (i), (ii) or (iii) above is subject to a lease term exceeding three (3) years as provided in (iv) above, the holder of such lessee’s interest shall have the same rights and duties of the property owner for purposes of this section (which shall supersede and replace the owner/lessor’s interest for purposes of this section).

Protected Root Zone: An area surrounding the tree by 1 ½ feet in radius for every inch of the tree caliper.

Public Service Utility or Installation: See “Essential Service Facility”

Recreational Facility: An entity which receives a fee, whether by membership or daily passes, in return for the provision of some active recreational activity including but not limited to: gymnastic facilities, indoor soccer, bike & skate parks, racquet clubs, tennis and pickle ball courts, physical fitness facilities, swimming pools, athletic fields, yoga, spinning, martial arts, and other similar activities related to personal or team athletics, exercise, fitness and including their ancillary support services.

Recreational Field Complex: A facility with one or more outdoor athletic fields and which may include ancillary uses such as parking lots, fencing, lighting, restrooms, playgrounds, or weather shelters.

Recreational Unit: A tent, or vehicular-type structure, primarily designed as temporary living quarters for recreational camping or travel use, which either has its own mode of power or is mounted on or drawn by another vehicle which is self-powered. A tent means a collapsible shelter of canvas or other fabric stretched and sustained by poles or ropes and used for camping outdoors. Recreational unit shall include travel trailer, camping trailers, motor home, truck camper, slide-in-camper, and chassis-mount camper, camping cabins, watercrafts, snowmobiles, special terrain vehicles, and utility trailers.

Recycling Facility: A facility designed for conducting a recycling operation.

Recycling Operation: The recovery and processing of recyclable materials for reuse.

Rehabilitation Center: A facility offering substance abuse treatment and rehabilitation services.

Research and Design Facility: Any facility, including a laboratory, used for scientific research, product design, testing, technology development, analysis, experimentation, consulting, business development, basic and applied learning, or other similar use, but not including manufacturing or processing. For the purposes of the Zoning Ordinance, a "Safety compliance facility" as defined by the Medical Marihuana Facilities Licensing Act (Public Act 281 of 2016) and a "Marihuana safety compliance facility" as defined by the Michigan Regulation and Taxation of Marihuana Act (Initiated Law 1 of 2018) shall be considered as a type of research and design facility. For the purposes of this ordinance, a research and design facility which is accessory to a principal use shall be reviewed according to the standards for the principal use.

Restaurant: An establishment where food and drinks are prepared, served, and consumed, mostly within the principal building such as lunch counters, dairy bars, bakeries, delicatessens, coffee shops, and other similar establishments. For the purposes of this Ordinance, "Bar, Tavern, or Night Club" is defined separately.

Restaurant, with Drive-Through: Any restaurant that includes a drive-in or drive-through as a part of its service or building design.

Restaurant, without Drive-Through: Any restaurant that does not include a drive-in or drive-through as a part of its service or building design.

Retail Fabricator: A shop or establishment which fabricates merchandise primarily for retail sale, where the retail activity occupies 50% or more of the overall floor space.

Retail, Industrial Accessory: Retail activity that is accessory to a primary industrial use, where such retail activity occupies 15% or less of the overall floor space.

Retail, Industrial Primary: Retail activity that is a primary use on a site in an industrial district. Such retail activity generally has characteristics that are different from retail in a commercial district or that would result in greater site impacts, including bulky or high-value items, outdoor display or outdoor storage, a large indoor storage area or warehouse, and low traffic volumes, including but not limited to building supply and equipment stores, equipment sales and service businesses, furniture stores, and automobile dealerships.

Retail, Low Volume: The sale or rental of goods or merchandise, including the rendering of services incidental to the sale of such goods, taking place in a building of less than five thousand (5,000) square feet. Low volume retail primarily serves residents of the surrounding neighborhood.

Retail, Medium Volume: The sale or rental of goods or merchandise, including the rendering of services incidental to the sale of such goods, taking place in a building of between five thousand (5,000) square feet and fifty thousand (50,000) square feet. Medium volume retail primarily serves residents of several nearby neighborhoods or the entire community.

Retail, High Volume: The sale or rental of goods or merchandise, including the rendering of services incidental to the sale of such goods, taking place in a building of greater than fifty thousand (50,000) square feet. High volume retail primarily serves the entire community and other nearby communities across the region.

Right-of-Way: A street, alley or other thoroughfare or easement for passage of persons or vehicles, but not including a driveway or joint driveway.

Road: See "Street"

Road, Arterial: Any road designated as an "Other Principal Arterial" or "Minor Arterial" on the National Functional Classification (NFC) system as defined by the Michigan Department of Transportation (MDOT).

Road, Collector: Any road designated as a "Major Collector" or "Minor Collector" on the National Functional Classification (NFC) system as defined by the Michigan Department of Transportation (MDOT).

Road, Highway: Any road designated as an "Interstate" or "Other Freeway" on the National Functional Classification (NFC) system as defined by the Michigan Department of Transportation (MDOT).

Road, Local: Any road designated as "Local" on the National Functional Classification (NFC) system as defined by the Michigan Department of Transportation (MDOT), including public and private roads.

Road, Major Thoroughfare: Any road designated as either an arterial road or a collector road.

Road, Primary: See "Road, Collector"

Road, Private: See "Street, Private"

Road, Public: See "Street, Public"

Road Frontage: See "Lot Width"

Roadside Stand: A structure for the display of agricultural products with no space for customers within the structure itself.

Sale of Prefabricated Structures: A business where prefabricated structures such as mobile home units or prefabricated storage sheds are displayed and sold.

Sand or Gravel Pit, Quarry: Land where sand or gravel is extracted from the ground as a key natural resource, which may include processing.

Screening: The enclosure of an area by a visual barrier, which may include a landscape buffer, fencing or other materials.

Sequential Messaging: A succession of interrelated sign messages, presented on one or more sign faces, which, when read collectively, provide a completed message, statement thought, or idea.

Service Establishment, Business: Establishments primarily engaged in providing services for businesses including photocopying, equipment rental, and other similar services.

Service Establishment, Personal: Establishments primarily engaged in providing services involving the care of a person or their goods such as beauty shops, barber shops, laundry facility, jewelry repair shops, dry cleaning establishment (pickup only), and shoe repair, excluding the processing of physical materials.

Setback: The minimum required distance between the property line and the closest point of any structure whether attached or detached.

Setback, Front: The minimum required distance between the closest point of any structure and the front property line. The front property line is determined by the location of the principal street or right-of-way providing access to a lot, except that the Zoning Administrator may determine the front yard to be on the street front that is in line with the prevailing pattern of front yards on the street in order to be consistent with the established development pattern of the street.

Setback, Rear: The minimum required distance between the closest point of any structure and the rear property line, generally considered as the opposite side of the lot from the front property line.

Setback, Side: The minimum required distance between the closest point of any structure and any property line not considered a front or rear lot line.

Shopping Center, General: A group of retail establishments, greater than ten thousand (10,000) square feet in floor area, planned and constructed on a unified site as an integrated unit for shopping and other business activity.

Shopping Center, Local: A group of retail establishments with a maximum square footage of ten thousand (10,000) square feet in floor area, planned and constructed on a unified site as an integrated unit for shopping and other business activity.

Short-Term: In relation to the occupancy of a building or dwelling unit, any period of less than thirty (30) consecutive days.

Sign: Any words, lettering, parts of letters, figures, fixtures, numerals, phrases, sentences, emblems, devices, designs, trade names or marks, or combinations thereof, by which communication is made or presented to identify or call attention to an individual, a firm, an association, a profession, a business, a commodity, or a product which are legible from any public roadway or private road, street, highway or other public way.

Sign Area: The entire area of a sign measured by a rectangle or square enclosing the extreme height and width limits of the sign face and sign structure, regardless of the shape of the sign face or sign structure.



Sign, Banner: A sign other than a flag, with or without characters, letters, illustrations or ornamentation applied to cloth, flexible plastic, canvas, fabric or other similar light material that can be easily folded or rolled, but not including paper or cardboard, that is intended to be hung either with a frame or without a frame. Neither flags nor canopy signs are considered banners.

Sign, Billboard – Highway Advertising: An off-premises sign owned by a person, corporation, or other legal entity that engages in the business of utilizing and/or selling the space on that sign for advertising.

Sign, Changeable Copy: Any part of a sign that is changeable either manually or electronically, including changeable message boards, digital static messages or images that change physical position or light intensity, by any movement or rotation or that gives the illusion of movement or rotation.

Sign, Community: Temporary, on or off premises signs, generally made of woven material or durable synthetic materials primarily attached to or hung from poles or on buildings. These signs are solely of a decorative, festive and/or informative nature announcing activities, promotions, or events with seasonal or traditional themes having broad community interest, and which are sponsored or supported by a legally constituted nonprofit organization.

Sign, Directional: An on-premise sign which solely directs visitors or customers to a particular land use or all or part of a development.

Sign Face: The one vertical plane surface of a sign where the message is displayed or illustrated, irrespective of the size of the associated message.

Sign, Festival Banner Flag: Any banner or flag, as defined in this Ordinance, that meets the definition of a community sign.

Sign, Freestanding: The vertical plane surface of a sign where the message is displayed or illustrated, irrespective of the size of the associated message.

Sign, Nonconforming: A sign or sign structure or portion thereof lawfully existing at the time this Ordinance became effective, which does not now conform.

Sign, Off-Premise: See “Sign, Billboard – Highway Advertising”

Sign, On-Premise: A sign which contains a message identifying a business, profession, product(s), or services conducted or available on the property upon which such sign is located.

Sign, Project Development: A sign placed on the premises of a subdivision or other real estate development to indicate the proposed start of the development project and to provide additional information about the project during the construction period. Project development signs are not to exceed forty (40) square feet on each side of a two (2) sided sign.

Sign, Real Estate Development: A sign placed on the premises of a subdivision or other real estate development to indicate the proposed start of the development project or to inform the public that property within the development is available.

Sign, Roof: A sign erected and constructed wholly on the roof of a building and supported by the roof structure. A roof signs height shall not exceed the midpoint of the roof. A sign located on a buildings flat roof parapet is not considered a roof sign.

Sign Structure: Any supports, uprights or internal framework or bracing of a sign excluding walls which are part of a building, landscape wall, or similar structure.

Sign, Wall: The area of a wall which is used to graphically communicate a message or announcement.

Site Area: The total area within the property lines excluding the street right-of-way.

Site Condominium: Any parcel of land, which may be divided as a condominium under Public Act 59 of the Public Acts of 1978, as amended, into two or more parts, including building sites or lots, for the purpose of being occupied by either separate or attached structures for the purpose of being dedicated to some common use. This definition shall be deemed not exclusive and the definition of site condominium shall include any other decision which may be statutorily or judicially required, or which may be appropriate by common usage.

Site Condominium Lot: A measured portion of a parcel or tract of land which is described and fixed as a unit within a Condominium Project.

Site Condominium Subdivision: A Condominium Project divided into site condominium lots.

Small Warehousing Establishment: A structure, series of structures, or series of interior units with totally enclosed storage, and generally intended to be sold or leased on an individual basis for self-storage purposes.

Solar Collector Surface: Any part of a solar energy system that absorbs solar energy for use in the system's transformation process. The collector surface does not include frames, supports, and mounting hardware.

Solar Energy: Radiant energy received from the sun that can be collected in the form of heat or light by a solar energy system.

Solar Energy System: A system (including solar collectors and ancillary equipment) either affixed to a permanent principal or accessory building or functioning as a freestanding structure, that collects, stores, and distributes solar energy for heating or cooling, generating electricity, or heating water. Solar energy systems include, but are not limited to, photovoltaic (PV) power systems and solar thermal systems. Solar energy systems shall not be considered essential services. Solar energy systems do not include a panel or panel array less than 10 square feet.

Solar Energy System, Accessory: A solar energy system that meets the following:

1. The system is an accessory use of the property.
2. The system is primarily used for generating electricity for on-site use.

Solar Energy System, Primary: A solar energy system that meets the following:

1. The system is the primary use of the property.
2. The system is primarily used for generating electricity for sale and distribution off-site.

Solar Equipment, Ancillary: Any accessory part or device of a solar energy system that does not require direct access to sunlight, such as but not limited to batteries, electric meters, converters, or water heater tanks.

Stormwater Containment, Non-Agricultural: Stormwater containment systems on split-zoned properties to support non-agricultural uses.

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

Street: A publicly or privately owned right-of-way, easement, or general common area (in the case of a site condominium subdivision) that provides direct vehicular access to abutting properties.

Street, Minor: A public street or way, the principal use or function of which is to give access to the abutting properties.

Street, Private: A street, defined herein, which is to be privately owned and maintained and has not been accepted for jurisdiction and maintenance by the City of Traverse City, Grand Traverse County, the State of Michigan or the federal government but which meets the requirements of this Ordinance or has been approved as a private road by the Township under this Ordinance or any prior ordinance.

Street, Public: A street, defined herein, which has been dedicated to and accepted for jurisdiction and maintenance by the City of Traverse City, Grand Traverse County, the State of Michigan, or the federal government.

Structure: Any production or piece of material artificially built up and composed of parts joined together in some definite manner, any construction, including decks, dwellings, garages, buildings, mobile homes, signs and sign boards, towers, poles, antennae, landfills, walls, weirs, jetties, pipes or other like objects, but not including fences.

Survival Wind Speed: The maximum wind speed, as designated by the Wind Energy Conversion System manufacturer, at which a Wind Energy Conversion System, in unattended operation (not necessarily producing power) is designed to survive without damage to any structural component or loss of the ability to function normally.

Swimming Pool: Any structure designed and constructed for the purpose of swimming or bathing that contains water over 24 inches deep and has over 100 square feet of surface area.

Swimming Pool, Private: A recreational swimming pool which is an accessory use to a private residential dwelling and/or a private residential development.

Temporary Infrastructure: A non-permanent site element substituted to meet a site development need until construction is complete, and existing for less than 365 calendar days.

Temporary Outdoor Sales: See "Outdoor Sales, Temporary"

Temporary School Facility: A portable classroom used to support students of public or private elementary or secondary schools on a temporary basis.

Tower Height:

1. Horizontal Axis Wind Turbine Rotors: The distance between the ground and the highest point of the Wind Energy Conversion System, as measured from the ground, plus the length by which the rotor blade on a horizontally mounted Wind Energy Conversion System exceeds the structure, which support the rotor and the blades.
2. Vertical Axis Wind Turbine: The distance between the ground and the highest point of the Wind Energy Conversion System.

Township Board: Charter Township of Garfield Board of Trustees.

Transportation Dispatch Center: A facility designed for the operations of a transportation service entity and to house vehicles such as taxicabs in between servicing their customers.

Travel Trailer: See "Recreational Unit"

Travel Trailer Park: See "Campground or Travel Trailer Park"

Trip End: Means the total of all motor vehicle trips entering plus all motor vehicle trips leaving a designated land use or building over a given period of time.

Truck or Rail Freight Terminal: An industrial facility designed to receive freight at the end of a truck or rail trip and facilitate the transfer of freight between modes of transportation.

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

Vacation Home Rental: A commercial use of a residential dwelling where the dwelling is rented or sold for any term less than thirty (30) consecutive days.

Vehicle Dealership, with Outdoor Sales: A business which offers for sale or rent cars, boats, trailers, off-road vehicles, recreational vehicles, personal trailers, truck tractors, tractor trailers, farming equipment, or other motorized equipment, and which may include both indoor and outdoor sales.

Vehicle Dealership, without Outdoor Sales: A business which offers for sale or rent cars, boats, trailers, off-road vehicles, recreational vehicles, personal trailers, truck tractors, tractor trailers, farming equipment, or other motorized equipment, and which includes only indoor sales where the vehicles are displayed. This type of use is typically associated with walk-in or internet sales.

Vehicle Service Center, Major: A business which offers servicing of vehicles with impacts which are more significant than a minor vehicle service center, such as a mechanic, body shop, major repair and/or rebuilding of vehicles, or similar. Vehicles serviced may include automobiles, trailers, boats, and other motorized vehicles.

Vehicle Service Center, Minor: A business which offers servicing of vehicles with limited impacts on surrounding uses, such as oil changes, tire sales and service, general maintenance, or similar. Vehicles serviced may include automobiles, trailers, boats, and other motorized vehicles.

Veterinary Hospital: A building where animals are given medical care, but with no long-term boarding facilities. Any boarding of animals is limited to short-term recovery care associated with the hospital use.

- For a facility which includes long-term boarding of animals, see “Kennel”

View Corridor: Areas, usually linear or triangular, which are prevented from obscuring the view of or from particular points, via height limitations, or other development restrictions.

Warehouse or Distribution Center: A structure for storage and/or distribution of goods or material, including storage facilities for sand, gravel, stone, and contractor’s equipment.

Warehouse or Distribution Center, Hazardous Materials: A structure for storage and/or distribution of hazardous substances such as fuels, chemicals, hazardous waste, or other flammable or toxic substances.

Water Mark: The highest normal water level of the major lakes within the Township.

Water Mark, Ordinary High: A line between upland and bottomland, which persists through successive changes in water levels, below which the present 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, as defined in Part 301, Inland Lakes and Streams, of the Natural Resources and Environmental Protection Act (Act 451) of 1994, as amended.

Water Mark, Boardman Lake: 590.0 feet above sea level.

Water Mark, Silver Lake: 862.0 feet above sea level.

Waterfront Stairway and Landing: Small structures on the waterfront of the property which provide points of access from the land to the water.

Wholesaler: A business which includes the warehousing and storage of bulk quantities of goods and the sale of goods directly to businesses. Some wholesalers may also have a portion of their operation which involves retail and the sale of goods directly to consumers, where such retail activity occupies 15% or less of the overall floor space.

Wind Energy Conversion System: Also abbreviated as WECS, a Wind Energy Conversion System shall mean a combination of:

1. A surface area, either variable or fixed, for utilizing the wind for electrical power, 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.

Wind Energy Conversion System, Interconnected: A wind energy conversion system which is electrically connected to the local electrical power utility system and could feed power back into the local electrical power utility system.

Wind Energy Conversion System, Personal: The combination of structures, mechanical equipment, and associated controllers which convert wind energy into usable electricity for use at a personal residence.

Wireless Communication Collocation: To place or install wireless communications equipment on an existing wireless communications support structure or in an existing equipment compound. "Collocation" has a corresponding meaning.

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

Wireless Communication Facility: All facilities, equipment, and other structures used in the provision of wireless communications services.

Wireless Communications Support Structure: A structure that is designed to support, or is capable of supporting, wireless communications equipment, including a monopole, self-supporting lattice tower, guyed tower, water tower, utility pole, or building.

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

Yard: An open space on the same lot with a building, unoccupied and unobstructed from the ground upward, except as otherwise provided herein. The measurement of the yard shall be construed as the minimum horizontal distance between a lot line and a building line.

Yard, Front: A yard, extending across the front of the lot between the side lot lines and measured between the front line of the lot and the building line.

Yard, Rear: An open space on the lot with a principal use, unoccupied, except as herein permitted, extending the full width of the lot and situated between the rear line of the lot and the rear building line projected to the side lines of the lot.

Yard, Side: An open and unoccupied space, unless otherwise provided herein, on the lot with a principal use, situated between the building line and the side line of the lot and extending from the front yard to the rear yard. Any yard not a front yard or rear yard shall be deemed a side yard.

Zoning Permit: A type of permit required for any change in use of land or structure in accordance with the provisions of this Ordinance.

## SECTION 203 ADULT BUSINESS DEFINITIONS

Adult Business: Includes the following uses and acts as defined and described below and by Ordinance #51 Adult Licensing Ordinance:

Adult Arcade: Means any place to which the public is permitted or invited wherein coin operated or slug-operated or electronically, electrically, or mechanically controlled still or motion picture machines, projectors, or other image-producing devices are regularly maintained to show images for any form of consideration to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by the depicting or describing of Specified Sexual Activities or Specified Anatomical Areas (as those terms are defined elsewhere herein).

Adult Bookstore or Adult Video Store: Means a commercial establishment which, as one of its principal business activities, offers for sale or rental for any form of consideration any one or more of the following: books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes, compact discs, digital video discs, slides, or other visual representations which are characterized by their emphasis upon the display of Specified Sexual Activities or Specified Anatomical Areas.

A "principal business activity" exists where:

- a. at least 35% of the establishment's displayed merchandise consists of said items, or
- b. at least 35% of the wholesale value of the establishment's displayed merchandise is in said items, or
- c. at least 35% of the fair market value of the establishment's displayed merchandise is in said items, or
- d. at least 35% of the establishment's gross revenues derive from the sale or rental, for any form of consideration, of said items, or
- e. at least 35% of the establishment's interior business space or, if less than 35%, at least five hundred square feet (500 sq. ft.) of the establishment's interior business space, is maintained for the display, sale, and/or rental of the foregoing items (aisles and walkways used to access said items shall be included in "interior business space" maintained for the display, sale, and/or rental of said items); or
- f. the establishment offers for sale or rental at least two thousand five hundred (2,500) of the foregoing items; or
- g. the establishment regularly features said items and regularly advertises itself or holds itself out as an establishment that caters to adult sexual interests by using "adult," "XXX," "sex," "erotic," or substantially similar language.

Adult Cabaret: A nightclub, bar, juice bar, restaurant, or similar commercial establishment which regularly features persons who appear in a state of semi-nudity; or films, motion pictures, video cassettes, slides, or other photographic reproductions which are characterized by the depiction of Specified Sexual Activities or Specified Anatomical Areas.

Adult Motel: A hotel, motel or similar commercial establishment which offers accommodation to the public for any form of consideration and provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides or other photographic reproductions which are characterized by the depiction or description of Specified Sexual Activities or Specified Anatomical Areas and has a sign visible from the public right of way which advertises the availability of this adult type of photographic reproduction; offers a sleeping room for rent for a pre-designated period of time that is less than twelve (12) hours; or allows a tenant or occupant of a sleeping room to sub-rent the room for a period of time that is less than twelve (12) hours.

Adult Motion Picture Theater: A commercial establishment where, for any form of consideration, films, motion pictures, video cassettes, slides or similar photographic reproductions are regularly shown which are characterized by the depiction or description of Specified Sexual Activities or Specified Anatomical Areas.

Adult Theater: A theater, concert hall, auditorium or similar commercial establishment which regularly features persons who appear in a state of semi-nudity.

Escort Agency: A person or business association who furnishes, offers to furnish, or advertises to furnish Escorts as one of its primary business purposes for a fee, tip, or other consideration.

Nudity or a State of Nudity: The showing of the human male or female genitals, pubic area, vulva, anus, anal cleft or cleavage with less than a fully opaque covering, or the showing of the female breast with less than a fully opaque covering of any part of the nipple and areola.

Regularly: The consistent and repeated doing of an act on an ongoing basis.

Semi-Nude or State of Semi-Nudity: The showing of the female breast below a horizontal line across the top of the areola and extending across the width of the breast at that point, or the showing of the male or female buttocks. This definition shall include the lower portion of the human female breast, but shall not include any portion of the cleavage of the human female breasts exhibited by a bikini, dress, blouse, shirt, leotard, or similar wearing apparel provided the areola is not exposed in whole or in part.

Sexual Device: Any three (3) dimensional object designed for stimulation of the male or female human genitals, anus, female breast, or for sadomasochistic use or abuse of oneself or others and shall include devices commonly known as dildos, vibrators, penis pumps, cock rings, anal beads, butt plugs, nipple clamps, and physical representations of the human genital organs. Nothing in this definition shall be construed to include devices primarily intended for protection against sexually transmitted diseases or for preventing pregnancy.

Sexual Device Shop: A commercial establishment that regularly features sexual devices. This definition shall not be construed to include any pharmacy, drug store, medical clinic, any establishment primarily dedicated to providing medical or healthcare products or services, or any establishment that does not limit access to its premises or a portion of its premises to adults only.

Sexual Encounter Center: A business or commercial enterprise that, as one of its principal business purposes, offers any form of physical contact in the form of wrestling or tumbling between persons of the opposite sex; or activities between male and female persons and/or persons of the same sex when one or more of the persons is in a state of nudity or semi-nudity.



Specified Anatomical Areas: A 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 human male genitals in a discernibly turgid state, even if completely and opaquely covered.

Specified Sexual Activities: The act of intercourse, oral copulation, masturbation or sodomy; or excretory functions as a part of or in connection with intercourse, oral copulation, masturbation or sodomy.

Viewing Room: A room, booth, or area where a patron of an adult business would ordinarily be positioned while watching a film, videocassette, digital video disc, or other video reproduction.

# ARTICLE 3 ZONING

## SECTION 300 PURPOSE

This article establishes zoning districts and describes the use and design regulations that apply to each district. This article includes the following divisions:

- *Division 1: Introduction* establishes the regulatory authority for the Township to create zoning districts.
- *Division 2: Base Zoning Districts* establishes districts that divide the township into various agricultural, residential, commercial, and mixed-use industrial zones. Each district establishes uses that are permitted “as of right,” conditionally, and as a special land use. A use permitted as of right has been determined to be compatible with the other uses within the purpose of the district and therefore requires only administrative approval. A use permitted conditionally is permitted provided the applicable conditions are satisfied. Special land uses require a public hearing to assess whether conditions are needed in order to make the use compatible with other uses in the district.
- *Division 3: Overlay Zoning Districts* establishes districts within which the standards of both the base and overlay zoning districts apply. These districts address special situations that require additional regulations to protect the public health, safety, and general welfare.
- The “supplemental use regulations” in Article 7, Supplemental Use Regulations, of this ordinance establish regulations for some uses that are permitted in a zoning district but raise special concerns that require additional uniform regulations. The regulations set forth apply regardless of whether the use is permitted as of right, conditionally, or as a special land use within the district.

### *DIVISION 1: INTRODUCTION*

Pursuant to the Michigan Zoning Enabling Act, the purpose of this section is to promote the public health, safety, morals, and general welfare, and to protect and preserve places and areas of historical, cultural, or architectural importance and significance. These regulations are adopted in accordance with the master plan and are designed to:

- Lessen congestion in the streets
- Secure safety from fire, panic, and other dangers
- Promote health and general welfare
- Provide adequate light and air
- Prevent the overcrowding of land
- Avoid an undue concentration of population, or
- Facilitate the adequate provision of transportation, water, sewers, schools, parks, and other public requirements.

Consistent with the goals and objectives listed in the master plan, these regulations are designed to foster the following subsidiary purposes:

- Distribute land uses to meet the physical, social, cultural, economic, and energy needs of present and future populations

- Ensure that new development is compatible with its surroundings in use, character, and size
- Provide for land uses that serve important public needs, such as affordable housing and employment generators
- Promote mixed-use buildings and mixed-use neighborhoods
- Promote infill housing and core area retail and residential development
- Integrate civic uses into neighborhoods
- Protect natural resources, and
- Encourage retail development in urban, neighborhood, and regional centers.

**SECTION 301 GENERAL REQUIREMENTS**

No land shall be used or occupied and no structures shall be designed, erected, moved, altered, used, or occupied except in conformity with all of the regulations, in compliance with all of the design standards, and upon performance of all conditions attached to any approval, of this ordinance.

**SECTION 302 ESTABLISHMENT OF DISTRICTS**

**A. Categories of Zoning Districts**

The Township establishes six categories of zoning districts. Base zoning districts cover all parcels within the township and divide those parcels into distinct zoning districts. Overlay zoning districts apply to a geographically defined area and exist as an addition to the base zoning district. Conditional zoning districts apply to specific parcels or grouping of parcels, resulting from a development application under Section 422 Conditional Rezoning of this ordinance. Additional zoning districts that may be added shall be included in one of these six zoning categories.

**B. Base Zoning Districts**

The Township is divided into the zoning districts shown in Table 3-1.

**Table 3-1  
Base Zoning Districts Correspondence**

<b>Zoning District Name</b>	
R-1	(ONE FAMILY RESIDENTIAL)
R-2	(TWO FAMILY RESIDENTIAL)
R-3	(MULTIPLE FAMILY RESIDENTIAL)
R-R	(RURAL RESIDENTIAL)
R-M	(MOBILE HOME RESIDENTIAL)
C-L	(LOCAL COMMERCIAL)
C-O	(OFFICE COMMERCIAL)
C-G	(GENERAL COMMERCIAL)
C-H	(HIGHWAY COMMERCIAL)
C-P	(PLANNED SHOPPING CENTER COMMERCIAL)
I-G	(GENERAL MIXED-USE INDUSTRIAL BUSINESS)
I-L	(LIMITED MIXED-USE INDUSTRIAL BUSINESS)
A	(AGRICULTURAL)
P-R	(PARK – RECREATION)
GTC	(GRAND TRAVERSE COMMONS)

**C. Overlay Zoning Districts**

The Township establishes the overlay zoning districts set out in Table 3-2. These impose additional requirements on certain properties within one or more underlying base or conditional zoning districts.

**Table 3-2  
Overlay Zoning Districts**

<b>Overlay District Name</b>
Airport Overlay - § 341

**D. Conditional Zoning Districts**

Conditional zoning districts may only be established through application and the voluntary offer of conditions by an applicant. Conditional zoning standards apply on a site-specific basis and are not applicable to any other parcel within the township. See § 422 Conditional Rezoning. All conditional rezoning agreements shall be compiled in a separate register and maintained in and kept current by the Township.

**E. Reserved**

**F. Zoning Districts (Additional)**

Additional zoning districts may be added from time to time upon the recommendation of the Planning Commission to the Township Board pursuant to § 421 Zoning Ordinance Amendments in Article 4, Procedures, of this ordinance.

**SECTION 303 OFFICIAL ZONING MAP**

The maps delineating the boundaries of the various zoning districts, together with all matters and things shown on such maps, are adopted and approved, and collectively constitute the "Official Zoning Map." The Official Zoning Map is incorporated by reference and made a part of this ordinance. This map is on file in the office of the Zoning Administrator and in the office of the Township Clerk. All amendments to the official zoning map shall be listed in the order adopted in a separate register maintained in and kept current by the township. The Official Zoning Map carries the zoning district designations established in this article.

**SECTION 304 ZONING DISTRICT BOUNDARIES**

When definite distances in feet are not shown on the zoning map, the following rules apply:

- A. Boundaries indicated as approximately following the right-of-way or centerlines of streets, highways, alleys, or easements shall be construed to follow such right-of-way or centerlines
- B. Boundaries indicated as approximately following along a section line, quarter-section line, platted lot line, property line or other survey line, shall be construed as following such lines
- C. Boundaries indicated as following railroad lines shall be construed to be midway between the main tracks

- D. Boundaries indicated as approximately following the centerlines of streams, rivers, canals, lakes, or other bodies of water shall be construed to follow such centerlines
- E. Boundaries indicated as approximately following the shoreline of any lake, river, stream, or other body of water, shall be construed as following such shoreline and, in the event of change in a shoreline, shall be construed as following the actual shoreline
- F. Whenever any street, alley, or other public way not subject to zoning regulations is vacated by official action, the zoning district line adjoining each side of such street, alley, or other public way shall be automatically extended to the center of such vacation, and all areas so involved shall then be subject to all regulations of the extended districts, and
- G. Where physical or cultural features existing on the ground vary from those shown on the official zoning map, or in other circumstances where the zoning boundary is unclear, the Zoning Administrator shall interpret the district boundaries with appeal to the Zoning Board of Appeals.

**SECTION 305 NEWLY ANNEXED TERRITORY**

From the date of annexation until the property is zoned to a permanent zoning classification, annexed property will be zoned as an interim Agricultural district.

**SECTION 306 LANDS NOT ZONED**

Any lands which do not fall under a zoning district on the official zoning map, whether through error, omission, exposure of bottomlands, or otherwise, will be zoned as an interim Agricultural district.

## *DIVISION 2: BASE ZONING DISTRICTS*

### **PURPOSE**

The purpose of this division is to establish districts that divide the township into various agricultural, residential, commercial, and industrial zones. Each district establishes uses that are permitted “as of right,” conditionally, and as a special land use. This division also includes dimensional requirements (setback, minimum acreage, width, etc.) for each district.

### **SECTION 310**

Reserved.

### **SECTION 311 USE REGULATIONS**

#### **A. Generally**

No use is permitted unless it is listed as a permitted use, a conditional use, or a special land use in the respective zoning district. Additional uses permitted in some or all zoning districts are identified in Article 7, Supplemental Use Regulations. Permitted accessory uses are set forth and regulated in § 611 Accessory Uses and Structures of this ordinance.

#### **B. Uses Not Mentioned**

Except as may otherwise be permitted by interpretation under § 311.D. Interpretation—Materially Similar Uses of this division, a use not specifically mentioned or described by category in a specific zoning district or permitted by Article 7, Supplemental Use Regulations of this ordinance, is prohibited.

#### **C. Uses Preempted by State Statute**

Notwithstanding any provision of this ordinance to the contrary, uses that are required to be permitted in any zoning district by state statute may be permitted in accordance with state law whether or not the use is identified in any specific zoning district.

#### **D. Interpretation—Materially Similar Uses**

It is the intent of this article to group similar or compatible land uses into specific zoning districts, either as permitted uses or as uses authorized by a special use permit. Uses not listed as a permitted use or as a special land use are presumed to be prohibited from the applicable zoning district unless the Director of Planning shall determine that a use not mentioned can reasonably be interpreted to fit into a use category where similar uses are described.

In the event that a particular use is not listed in this ordinance, and such use is not listed as a prohibited use and is not otherwise prohibited by law, the Director of Planning shall determine in which district or districts, if any, a materially similar use exists. Should the Director of Planning determine that a materially similar use does exist, the regulations governing that use shall apply to the particular use not listed, and the Director of Planning’s decision shall be recorded in writing. Should the Director of Planning determine that a materially similar use does not exist, the matter may be referred to the Planning Commission for consideration for amendment to this ordinance to establish a specific listing for the use in question. Unless an appeal is timely filed pursuant to § 452 Interpretations by the Zoning Board of Appeals, of this ordinance, the Director of Planning’s decision is valid.

All determinations of the Director of Planning that have the effect of permitting a use not listed in this ordinance shall be recorded in writing and shall be reported to the Planning Commission at a regularly

scheduled meeting. All such written determinations shall also be compiled in a separate register maintained in and kept current by the Township.

**SECTION 312 DIMENSIONAL REGULATIONS AND USE CHART**

The dimensional design requirements are established in each zoning district per Table 3-3, Dimensional Standards, below. Each district includes an illustration of the design regulations. To the extent that there is inconsistency between the illustration and written regulations in each district, the written regulations govern.

The uses allowed by right, by special conditions, and by special use permit are established in each zoning district per Table 3-4, Use Chart, below. Table 3-4 shows each use, its level of permission in each zoning district, and a link to any additional conditions for that specific use, if applicable. To the extent that there is inconsistency between the table and written regulations in each district, the written regulations govern.

Abbreviations used in Table 3-3 and Table 3-4 are as follows:

<b>Zoning District Name</b>	
R-1	(One-Family Residential)
R-2	(Two-Family Residential)
R-3	(Multiple-Family Residential)
R-R	(Rural Residential)
R-M	(Mobile Home Residential)
C-L	(Local Commercial)
C-O	(Office Commercial)
C-G	(General Commercial)
C-H	(Highway Commercial)
C-P	(Planned Shopping Center)
I-G	(General Mixed-Use Industrial Business)
I-L	(Limited Mixed-Use Industrial Business)
A	(Agricultural)
P-R	(Park – Recreation)
<b>Level of Permission</b>	
R	Permitted by Right
SC	Permitted by Special Conditions
SUP	Permitted by Special Use Permit
(blank)	Not Permitted

Table 3-3 Dimensional Standards	Minimum Lot or Land Use Dimensions per Dwelling Unit		Maximum Height of Structures		Minimum Yard Setbacks (per lot in feet) Waterfront see "L" Highway Setback see "K"			Maximum Lot Coverage (All Structures)	Minimum Building Cross Section
	Zoning District	Area (in square feet)	Width (in feet)	In stories	In feet	Front	Side	Rear	Percent
R-1 (with public sewer)	15,000 (A)	100	2 ½	35	30	10	30	30%	24
R-1 (w/o public sewer)	20,000	100	2 ½	35	30	10	30	30%	24
R-2 (one family with public sewer)	12,000 (A)	80	2 ½	35	30	10	25	30%	24
R-2 (one family w/o public sewer)	15,000	100	2 ½	35	30	10	30	30%	24
R-2 (two family with public sewer)	10,000 (A)	75	2 ½	35	25	10	25	30%	24
R-2 (two family w/o public sewer)	13,500	80	2 ½	35	30	10	30	30%	24
R-3	(B)	70 (C)	3	40	25	(N)	20	35%	24
R-R	43,560	110	2 ½	35	30	15	35	20%	24
R-M	(D)								
C-L	10,000	70	2	28	25 (E)	(F)	30	-	24
C-O	10,000	70	2	22	25 (E)	20	30	-	24
C-G	15,000	100	-	35 (M)	40 (G)	(F)	(F)	-	24
C-H	10,000	100	-	35 (M)	50 (H)	20 (H)	30 (H)	-	24
C-P	(I)								
I-G	-	150	-	35 (M)	40 (E)	15	20	-	24
I-L	-	150	-	35 (M)	40 (E)	15	20	-	24
A	43,560 (J)	110	2 ½	35	30	20	35	20%	24
P-R	43,560	110	2 ½	35	30	20	35	20%	24



**Table 3-3 - Notes to Dimensional Standards**

- A. Lots in subdivisions having stubbed sewers shall be considered as having public sewer.
- B. The following Minimum Lot Area shall be required in the R-3 District:
  - One-Family                    10,000 square feet for each dwelling unit.
  - Two-Family                    6,000 square feet for each dwelling unit.
  - Multiple-Family              4,000 square feet for each dwelling unit.
- C. Lot widths shall be seventy (70) feet per dwelling unit for the first two (2) units, ten (10) additional feet for each of the next six (6) units and five (5) additional feet for each additional unit to a maximum required lot width of two hundred fifty (250) feet.
- D. Height, bulk, density, and area requirements for mobile home subdivisions are the same as those for the R-1 District. Such requirements for mobile home parks are set forth in § 317, Mobile Home Residential District.
- E. Front yards shall be appropriately landscaped and maintained and, except for necessary drives and walks, shall remain clear and not be used for storage, parking, loading or accessory structures.
- F. Side yards in the C-L District and side and rear yards in the C-G District shall be ten percent (10%) of the lot width and depth, respectively, but need not exceed twenty-five (25) feet each, provided that no setback shall be less than ten (10) feet.
- G. Front setbacks in the C-G District:
  - (1) Front yards shall be forty (40) feet, except when all frontage on one side of a street within a block is zoned C-G and when forty percent (40%) or more of a block has been developed with buildings, the average setback of said existing buildings shall apply.
  - (2) Setbacks along South Airport Road, north of South Airport Road between Barlow Road and the Cherryland Mall, shall be as required in the C-L District.
- H. There shall be included as an integral part of any site development within the C-H District, a strip of land fifty (50) feet or more in width on all sides which abut a residential or agricultural district, except on the side fronting on a major street or highway. This strip shall serve as a transition between the subject use and the adjacent property uses, both existing and future. No part of this transition strip shall be used for any of the site functions except that thirty (30) feet thereof may be used for parking area. Further, the transition strip shall be occupied by plant materials or structural fences or walls, used separately or in combination. The plans and specifications for site development shall include the proposed arrangement for such plantings and structures.
- I. See § 322, C-P Planned Shopping Center, for standards, procedures, and requirements.
- J. Minimum lot area in the A-1 District:
  - (1) An agricultural operation which includes the raising and keeping of livestock for profit shall have a minimum lot area of ten (10) acres.
  - (2) Individual lot areas in recorded plats may be less than the required minimum provided the average lot size in the recorded plat is not less than the required minimum lot area of the A District and provided further that no individual lot size shall be less than seventy percent (70%) of the minimum required lot area. Provisions for reduced lot shall be stated on the recorded plat such that minimum average lot sizes shall be maintained in the event of any subsequent amendment(s) to the plat. Not more than ten percent (10%) of the total lots in a plat shall contain less than the required minimum lot area.
- K. A supplemental highway setback, parallel to the right-of-way of US-31, shall apply to all parcels located outside a subdivision or plat of record. Such supplemental highway setback shall be equal to one hundred (100) feet from the centerline of the right-of-way. All minimum yard requirements, established in § 312 Dimensional Regulations of this article, shall apply in addition to the supplemental highway setback.
- L. 50-foot waterfront setback for single-family residences from Boardman Lake and Silver Lake water mark. Also see § 534 and § 535.
- M. Also see § 614 Height Exceptions.
- N. The following Minimum Side Yard Setbacks for Zoning District R-3 shall be:
  - One-Family                    10 feet.
  - Two-Family                    15 feet.
  - Multiple-Family              20 feet.

**Table 3-4 Use Chart**

Use Name	R-1	R-2	R-3	R-R	R-M	C-L	C-O	C-G	C-H	C-P	I-G	I-L	A	P-R	Conditions
Adult Foster Care, Family Home	R	R	R	R	R								R		
Adult Foster Care, Small Group Home	SUP	SUP	SUP	SUP									SUP		§ 708
Adult Foster Care, Large Group Home			SUP			R	R	R	R				SUP		§ 709
Adult Foster Care Facility			SUP			SUP	SUP	SC	SUP						§ 710
Airport or Airfield													SUP		
Auditorium or Assembly Hall								R	R	R					
Bar, Tavern, or Night Club								R	R	R					
Bed and Breakfast			SUP	SUP									SUP		§ 713
Boarding Residence			SUP												§ 714
Business College or Trade School								R			SC	SC			
Campground or Travel Trailer Park									SUP				SUP	SUP	§ 716
Car Wash								SUP			SUP	SUP			§ 717
Catering Establishment											R	R			
Cemetery	R	R	R	R									R		
Child Care, Family Home (<7)	SC	SC	SC	SC	R								SC		§ 718
Child Care, Small Group Home (7-12)	SC	SC	SC	SC									SC		§ 719
Child Care Center			SUP		SUP	SUP	SUP	SC	SUP				SUP		§ 720
Commercial District Housing Development								SUP	SUP	R					§ 725
Contractor's Establishment											R	R			
Crematorium											SUP	SUP			§ 727
Data Center and Computer Operations											R	R			
Drive-In Business								SUP	R	R					§ 730
Drive-Through Business								SUP	R	R					§ 730
Dry Cleaning Plant											SC	SC			
Dwelling, Single Family	R	R	R	R									R		
Dwelling, Two-Family		R	R												
Dwelling, Multiple Family			SUP												
Essential Service Facility, Major	SUP	SUP	SUP	SUP	SUP	SUP	SUP	SUP	SUP	SUP	SUP	SUP	SUP	SUP	§ 737.B
Essential Service Facility, Minor	R	R	R	R	R	R	R	R	R	R	R	R	R	R	§ 737.A
Farm Employees House													SC		
Farm Market													R		
Farm Operation													R		
Financial Institution, with Drive-Through						SUP	SUP	SC	R	R					§ 730

Use Name	R-1	R-2	R-3	R-R	R-M	C-L	C-O	C-G	C-H	C-P	I-G	I-L	A	P-R	Conditions
Financial Institution, without Drive-Through						R	R	R	R	R					
Game or Hunting Preserve, Commercial													SUP		
Gasoline Service Station						SUP		SC	SC		SUP	SUP			§ 748
Golf Course or Country Club	SC	SC	SC	SC									SUP		§ 749
Greenhouse, Commercial													SUP		
Home Industry													R		
Home Occupation	R	R	R	R									R		§ 612
Hospital								R	R	R					
Hotel or Motel								SC	SC	R					§ 750
Incinerator												SUP	SUP		
Indoor Entertainment Center								R	SC	R	R	R			§ 751
Institutional Uses and Structures	SUP	SUP	SUP	SUP		SUP	SUP	SC	SUP		SUP	SUP	SUP		§ 752
Junk Yard												SUP			§ 753
Keeping of Chickens, Personal	SC	SC	SC	SC											§ 754.A
Keeping of Farm Animals													R		
Keeping of Horses, Personal				SC									SC		§ 754.B
Kennel								R			R		SUP		§ 755
Live-Work Unit							R			R	R	R			
Livestock Auction Yard													SUP		
Lumber Processing and Sawmill											R	R	SUP		§ 756
Manufacturing, Heavy												R			
Manufacturing, Light											R	R			
Marina						R		R							
Mechanical Amusement Arcade								R	R		SUP				
Medical Marihuana Cultivation Facility											SC	SC			§ 757
Medical Marihuana Residential Cultivation	SC	SC	SC	SC									SC		§ 758
Medical Office, Clinic						R	R	R	R	R					
Medical Office, Surgical Center							R	R	R	R					
Metal Plating, Buffering, and Polishing												SUP			
Mobile Home					R										
Mobile Home Park					SC										§ 759
Mobile Home Subdivision					SC										
Mortuary or Funeral Home			SC			SUP		SC			SUP				§ 760
Office						R	R	R	R	R	SUP				
Off-Site Parking						R	SC	R			SUP	SUP			

Use Name	R-1	R-2	R-3	R-R	R-M	C-L	C-O	C-G	C-H	C-P	I-G	I-L	A	P-R	Conditions
Open Space Preservation	SC	SC	SC	SC											§ 428
Outdoor Entertainment Center, Major												SUP	SUP		§ 761
Outdoor Entertainment Center, Minor								R							
Outdoor Sales, Major								SC	SC		SUP				§ 762.A
Outdoor Sales, Minor								SC	SC						§ 762.B
Outdoor Sales, Temporary						SC		SC	SC						§ 762.C
Outdoor Storage, Accessory Use	SC	SC	SC	SC											§ 613.A (4)
Outdoor Storage, Primary Use											SC	SC			§ 763
Park, Mini	R	R	R	R	R	R	R	R	R	R	R	R	R	R	
Park, Neighborhood	R	R	R	R							R	R	R	R	
Park, Community - Low Intensity														R	
Park, Community - High Intensity														SUP	
Passenger Terminal								R	R		R	R			§ 764
Pet Grooming Establishment							R	R			R		R		
Pet Shop						SC		SC		R	SUP				§ 765
Printing or Publishing Enterprise											R	R			
Processing Operation											SUP	SUP			
Professional Showroom							R								
Professional Studio							R	R		R	SUP				
Recreational Facility								R	SC	R	R	R			
Recreational Field Complex	SC	SC	SC	SC									SUP		§ 766
Recycling Facility												SUP			
Rehabilitation Center							R								
Research and Design Facility							SC				SC	SC			§ 767
Restaurant, with Drive-Through								SUP	R	R					§ 768; § 730
Restaurant, without Drive-Through						SC		R	R	R					§ 768
Retail Fabricator								SUP							§ 769
Retail, Industrial Accessory											R	R			§ 611
Retail, Industrial Primary											SUP				§ 770
Retail, Low Volume						R		R	R	R					
Retail, Medium Volume								R	R	R					
Retail, High Volume								SUP	R	R					
Roadside Stand													R		
Sale of Prefabricated Structures								SUP							
Sand or Gravel Pit, Quarry												SUP	SUP		§ 771
Service Establishment, Business						SC		R	R	R					§ 772
Service Establishment, Personal						R	R	R	R	R					

Use Name	R-1	R-2	R-3	R-R	R-M	C-L	C-O	C-G	C-H	C-P	I-G	I-L	A	P-R	Conditions
Sexually Oriented Businesses								SC							§ 640
Shopping Center, General								SUP							
Shopping Center, Local						SUP		SC							
Small Warehousing Establishment											R	R			
Solar Energy System, Accessory	R	R	R	R	R	R	R	R	R	R	R	R	R	R	§ 773.A
Solar Energy System, Primary	SUP	SUP	SUP	SUP	SUP	SUP	SUP	SUP	SUP	SUP	SUP	SUP	SUP	SUP	§ 773.B
Stormwater Containment, Non-Agricultural													SC		§ 774
Swimming Pool, Private	SC	SC	SC	SC											§ 776
Transportation Dispatch Center											R	R			
Truck or Rail Freight Terminal											SUP	SUP			
Vehicle Dealership, with Outdoor Sales								SC	SC		SUP				§ 762
Vehicle Dealership, without Outdoor Sales								R	SC		SC				
Vehicle Service Center, Major								R	R		R	R			
Vehicle Service Center, Minor								R	R		SUP	SUP			
Veterinary Hospital						SC	SC	SC	R		R		SUP		
Warehouse or Distribution Center											R	R			
Warehouse or Distribution Center, Hazardous Materials												SUP			§ 777
Waterfront Stairways and Landings	SC	SC	SC	SC											§ 778
Wholesaler								SC			R	R			§ 779
Wind Energy Conversion System						SUP		SUP			SUP	SUP	SUP		§ 780
Wind Energy Conversion System, Personal	SUP	SUP	SUP	SUP	SUP								SC		§ 781
Wireless Communication Facilities								SUP	SUP		SUP	SUP	SUP		§ 792

## SECTION 313 R-1 (ONE FAMILY RESIDENTIAL)

**PURPOSE** – The R-1 (One Family Residential) districts provide areas for low to medium density one family residential dwelling units. The districts include areas of existing one family developments as well as areas within which such development appears likely and desirable. They are intended to encourage more intensive development in and near the core areas of the township with less intensive development moving outward towards the more rural and remote areas of the township. The R-1 districts are designed to encourage a suitable neighborhood environment for family life by including among the permitted uses such facilities as schools and parks that will promote a sense of community and urban vitality.

### **A. USES PERMITTED BY RIGHT:**

- (1) Adult Foster Care, Family Home
- (2) Cemetery
- (3) Dwelling, Single Family
- (4) Essential Service Facility, Minor – § 737.A
- (5) Home Occupation
- (6) Park, Mini
- (7) Park, Neighborhood
- (8) Solar Energy System, Accessory – § 773.A

### **B. USES PERMITTED BY SPECIAL CONDITIONS:**

- (1) Child Care, Family Home (<7) – § 718
- (2) Child Care, Small Group Home (7-12) – § 719
- (3) Golf Course or Country Club – § 749
- (4) Keeping of Chickens, Personal – § 754.A
- (5) Medical Marihuana Residential Cultivation – § 758
- (6) Open Space Preservation – § 428
- (7) Outdoor Storage, Accessory Use – § 613.A (4)
- (8) Recreational Field Complex – § 766
- (9) Swimming Pool, Private – § 776
- (10) Waterfront Stairways and Landings – § 778

### **C. USES PERMITTED BY SPECIAL USE PERMIT:**

- (1) Adult Foster Care, Small Group Home – § 708
- (2) Essential Service Facility, Major – § 737.B
- (3) Institutional Uses and Structures – § 752
- (4) Solar Energy System, Primary – § 773.B
- (5) Wind Energy Conversion System, Personal – § 781

### **D. ADDITIONAL STANDARDS:**

- (1) Driveways for single family residences shall comply with § 511.
- (2) Completion. Any single-family dwelling, accessory building or addition thereto must be completed on the exterior surface with a suitable finishing material including painting or staining in the case of wood, within two (2) years from date of issuance of a land use permit or one (1) year from the date of occupancy whichever occurs last.

**E. DIMENSIONAL STANDARDS (Per Dwelling Unit):**

**Minimum Lot Area (A):**

- With Public Sewer: 15,000 sq. ft.
- Without Public Sewer: 20,000 sq. ft.

**Notes to Dimensional Standards:**

- (A) Lots in subdivisions having stubbed sewers shall be considered as having public sewer.
- (B) Setbacks shall be measured from the furthest protruding point of structure.

**Minimum Lot Width:** 100 feet

**Maximum Building Height:**

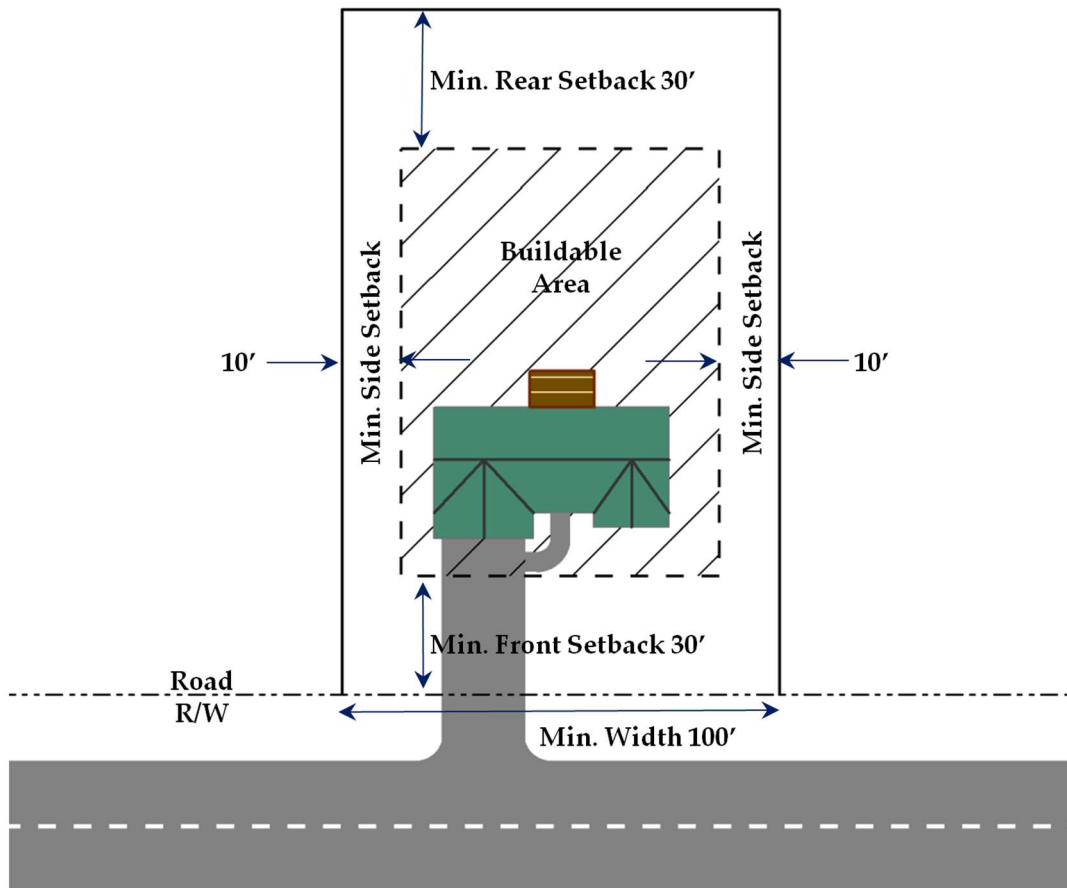
- In Stories: 2 ½ stories
- In Feet: 35 feet

**Minimum Yard Setbacks (B):**

- Front: 30 feet
- Each Side: 10 feet
- Rear: 30 feet

**Maximum Lot Coverage:** 30 percent

**Minimum Bldg. Cross Section:** 24 feet



*\*Not to scale. To be used for illustrative purposes only\**

## SECTION 314 R-2 (ONE AND TWO FAMILY RESIDENTIAL)

**PURPOSE** – The R-2 (One and Two Family Residential) districts provide areas for medium density one- and two-family residential dwelling units in and near to the developed core areas of the township. The districts include areas of existing one- and two-family developments as well as areas within which such development appears likely and desirable. The R-2 districts are designed to encourage a suitable neighborhood environment for family life by including among the permitted uses such facilities as schools, places of worship and parks. They provide a range of housing choices and promote a sense of community, urban vitality, and the efficient provision of infrastructure.

### **A. USES PERMITTED BY RIGHT:**

- (1) Adult Foster Care, Family Home
- (2) Cemetery
- (3) Dwelling, Single Family
- (4) Dwelling, Two-Family
- (5) Essential Service Facility, Minor – § 737.A
- (6) Home Occupation
- (7) Park, Mini
- (8) Park, Neighborhood
- (9) Solar Energy System, Accessory – § 773.A

### **B. USES PERMITTED BY SPECIAL CONDITIONS:**

- (1) Child Care, Family Home (<7) – § 718
- (2) Child Care, Small Group Home (7-12) – § 719
- (3) Golf Course or Country Club – § 749
- (4) Keeping of Chickens, Personal – § 754.A
- (5) Medical Marihuana Residential Cultivation – § 758
- (6) Open Space Preservation – § 428
- (7) Outdoor Storage, Accessory Use – § 613.A (4)
- (8) Recreational Field Complex – § 766
- (9) Swimming Pool, Private – § 776
- (10) Waterfront Stairways and Landings – § 778

### **C. USES PERMITTED BY SPECIAL USE PERMIT:**

- (1) Adult Foster Care, Small Group Home – § 708
- (2) Essential Service Facility, Major – § 737.B
- (3) Institutional Uses and Structures – § 752
- (4) Solar Energy System, Primary – § 773.B
- (5) Wind Energy Conversion System, Personal – § 781

### **D. ADDITIONAL STANDARDS:**

- (1) Driveways for single family residences shall comply with § 511.
- (2) Completion. Any single-family dwelling, accessory building or addition thereto must be completed on the exterior surface with a suitable finishing material including painting or staining in the case of wood, within two (2) years from date of issuance of a land use permit or one (1) year from the date of occupancy whichever occurs last.



**E. DIMENSIONAL STANDARDS:**

**Minimum Lot Area (A):**

- 1- Family w/ Public Sewer 12,000 sq. ft.
- 1- Family w/o Public Sewer 15,000 sq. ft.
- 2-Family w/ Public Sewer 12,000 sq. ft.
- 2-Family w/o Public Sewer 15,000 sq. ft.

**Minimum Lot Width:**

- 1- Family w/ Public Sewer 65 feet
- 1- Family w/o Public Sewer 100 feet
- 2-Family w/ Public Sewer 70 feet
- 2-Family w/o Public Sewer 100 feet

**Maximum Building Height:**

- In Stories: 2 ½ stories
- In Feet: 35 feet

**Minimum Yard Setbacks (B) (Front/Side/Rear):**

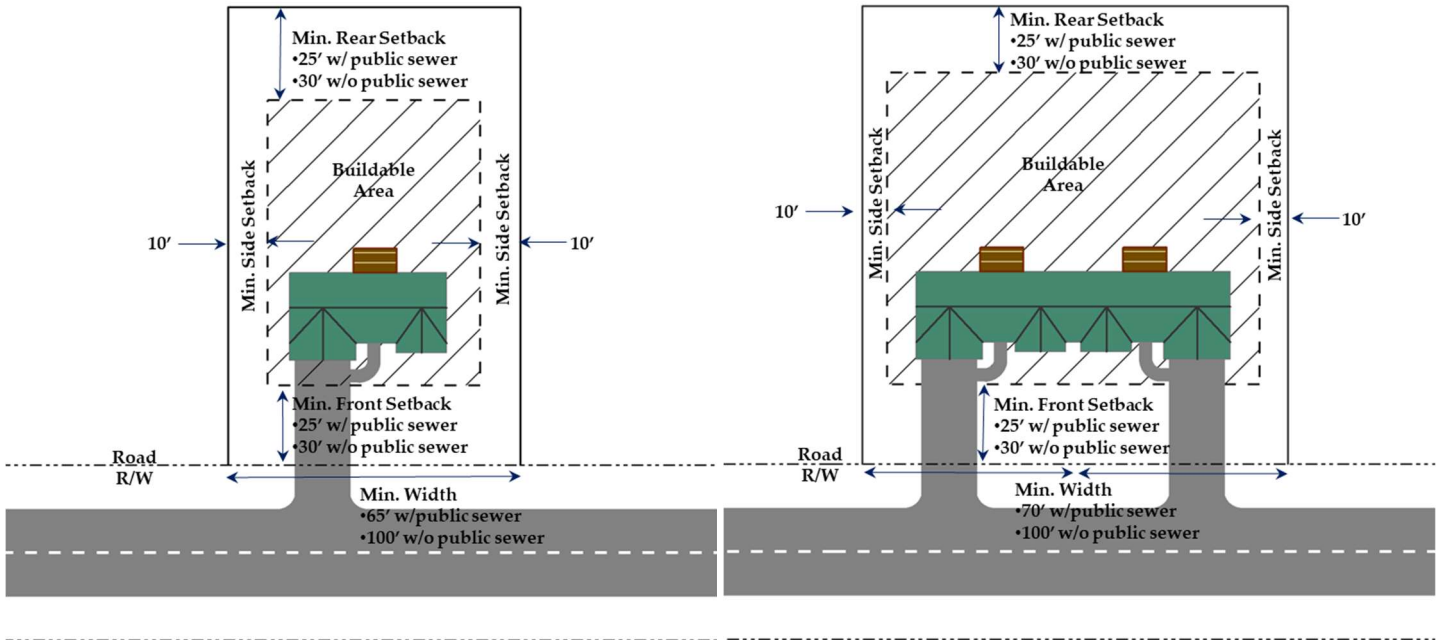
- 1- Family w/ Public Sewer 25'/10'/25'
- 1- Family w/o Public Sewer 30'/10'/30'
- 2-Family w/ Public Sewer 25'/10'/25'
- 2-Family w/o Public Sewer 30'/10'/30'

**Maximum Lot Coverage:** 30 percent

**Minimum Bldg. Cross Section:** 24 feet

**Notes to Dimensional Standards:**

- (A) Lots in subdivisions having stubbed sewers shall be considered as having public sewer.
- (B) Setbacks shall be measured from the furthest protruding point of structure.



*\*Not to scale. To be used for illustrative purposes only\**

## SECTION 315 R-3 (MULTIPLE FAMILY RESIDENTIAL)

**PURPOSE** – The R-3 (Multiple Family Residential) districts provide areas for medium to high density one and two family residential dwelling units mixed with a variety of multiple family residential dwelling types, including apartments and group housing, where adequate public facilities and services exist with capacity to serve such development. The districts are composed mainly of areas containing an existing mix of these dwelling types as well as areas within which such development appears likely and desirable. They are intended to encourage more intensive development in and near the core areas of the township. The R-3 districts are designed to encourage a suitable neighborhood environment for family life by including among the permitted uses such facilities as schools, places of worship and parks that will promote a sense of community, urban vitality and the efficient provision of infrastructure. R-3 district regulations are designed to allow for market and design flexibility while preserving the neighborhood character and permitting applicants to cluster development to preserve environmentally sensitive and natural land areas.

### A. USES PERMITTED BY RIGHT:

- (1) Adult Foster Care, Family Home
- (2) Cemetery
- (3) Dwelling, Single Family
- (4) Dwelling, Two Family
- (5) Essential Service Facility, Minor – § 737.A
- (6) Home Occupation
- (7) Park, Mini
- (8) Park, Neighborhood
- (9) Solar Energy System, Accessory – § 773.A

### B. USES PERMITTED BY SPECIAL CONDITIONS:

- (1) Child Care, Family Home (<7) – § 718
- (2) Child Care, Small Group Home (7-12) – § 719
- (3) Golf Course or Country Club – § 749
- (4) Keeping of Chickens, Personal – § 754.A
- (5) Medical Marijuana Residential Cultivation – § 758
- (6) Mortuary or Funeral Home – § 760
- (7) Open Space Preservation – § 428

### D. ADDITIONAL STANDARDS:

- (1) Driveways for single family residences shall comply with § 511.
- (2) Completion. Any single-family dwelling, accessory building or addition thereto must be completed on the exterior surface with a suitable finishing material including painting or staining in the case of wood, within two (2) years from date of issuance of a land use permit or one (1) year from the date of occupancy whichever occurs last.
- (3) Uses permitted by Special Use Permit in the R-3 District shall provide a minimum of 300-square feet of open space per dwelling unit. Required open space shall be consolidated and contiguous to the greatest extent reasonably possible to provide usable park-like areas. Structures shall be adjoined by open space areas on at least one side.

- (8) Outdoor Storage, Accessory Use – § 613.A (4)
- (9) Recreational Field Complex – § 766
- (10) Swimming Pool, Private – § 776
- (11) Waterfront Stairways and Landings – § 778

### C. USES PERMITTED BY SPECIAL USE PERMIT:

- (1) Adult Foster Care, Small Group Home – § 708
- (2) Adult Foster Care, Large Group Home – § 709
- (3) Adult Foster Care Facility – § 710
- (4) Bed and Breakfast – § 713
- (5) Boarding Residence – § 714
- (6) Child Care Center – § 720
- (7) Dwelling, Multiple Family
- (8) Essential Service Facility, Major – § 737.B
- (9) Institutional Uses and Structures – § 752
- (10) Solar Energy System, Primary – § 773.B
- (11) Wind Energy Conversion System, Personal – § 781

**E. DIMENSIONAL STANDARDS:**

**Minimum Lot Area:**

- One-Family: 10,000 sq. ft.
- Two-Family: 10,000 sq. ft.
- Multi-Family: 4,000 sq. ft. per dwelling unit

**Minimum Lot Width:**

- 1- Family w/ Public Sewer 65 feet
- 1- Family w/o Public Sewer 100 feet
- 2-Family w/ Public Sewer 70 feet
- 2-Family w/o Public Sewer 100 feet
- Multi-Family 100 feet

**Maximum Building Height:**

- In Stories: 3 stories
- In Feet: 40 feet (See section 341)

**Minimum Yard Setbacks (A):**

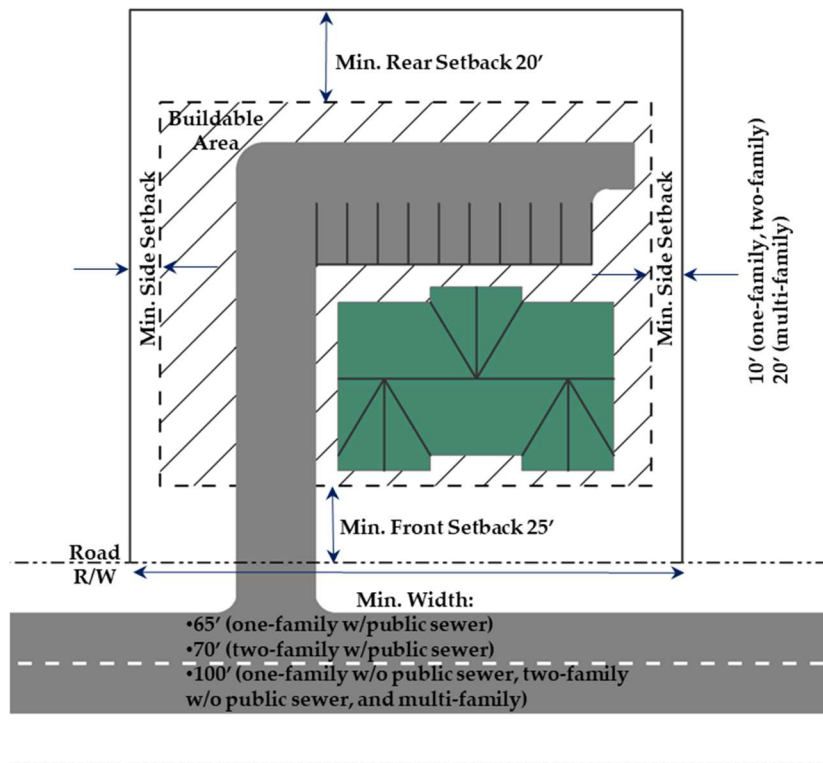
- Front: 25 feet
- Each Side (One-Family): 10 feet
- Each Side (Two-Family): 10 feet
- Each Side (Multi-Family): 20 feet
- Rear: 20 feet

**Maximum Lot Coverage:** 35 %

**Minimum Bldg. Cross Section:** 24 feet

**Notes to Dimensional Standards:**

(A) Setbacks shall be measured from the furthest protruding point of structure.



## SECTION 316 R-R (RURAL RESIDENTIAL)

**PURPOSE** – The R-R (Rural Residential) districts provide areas for predominantly low density one family residential dwelling units that will harmonize with the natural resource capabilities of the Township. The districts are intended to be semi-rural in character and include areas of the Township where: (1) public water and sewer facilities are not now available and are likely to remain without services indefinitely; and (2) natural resources and environmental conditions, such as hillsides, scenic areas, wetlands and shorelands, tend to make more intensive types of urbanized development destructive to environmental values.

### **A. USES PERMITTED BY RIGHT:**

- (1) Adult Foster Care, Family Home
- (2) Cemetery
- (3) Dwelling, Single Family
- (4) Essential Service Facility, Minor – § 737.A
- (5) Home Occupation
- (6) Park, Mini
- (7) Park, Neighborhood
- (8) Solar Energy System, Accessory – § 773.A

### **B. USES PERMITTED BY SPECIAL CONDITIONS:**

- (1) Child Care, Family Home (<7) – § 718
- (2) Child Care, Small Group Home (7-12) – § 719
- (3) Golf Course or Country Club – § 749
- (4) Keeping of Chickens, Personal – § 754.A
- (5) Keeping of Horses, Personal – § 754.B
- (6) Medical Marihuana Residential Cultivation – § 758
- (7) Open Space Preservation – § 428
- (8) Outdoor Storage, Accessory Use – § 613.A (4)
- (9) Recreational Field Complex – § 766
- (10) Swimming Pool, Private – § 776
- (11) Waterfront Stairways and Landings – § 778

### **C. USES PERMITTED BY SPECIAL USE PERMIT:**

- (1) Adult Foster Care, Small Group Home – § 708
- (2) Bed and Breakfast – § 713
- (3) Essential Service Facility, Major – § 737.B
- (4) Institutional Uses and Structures – § 752
- (5) Solar Energy System, Primary – § 773.B
- (6) Wind Energy Conversion System, Personal – § 781

### **D. ADDITIONAL STANDARDS:**

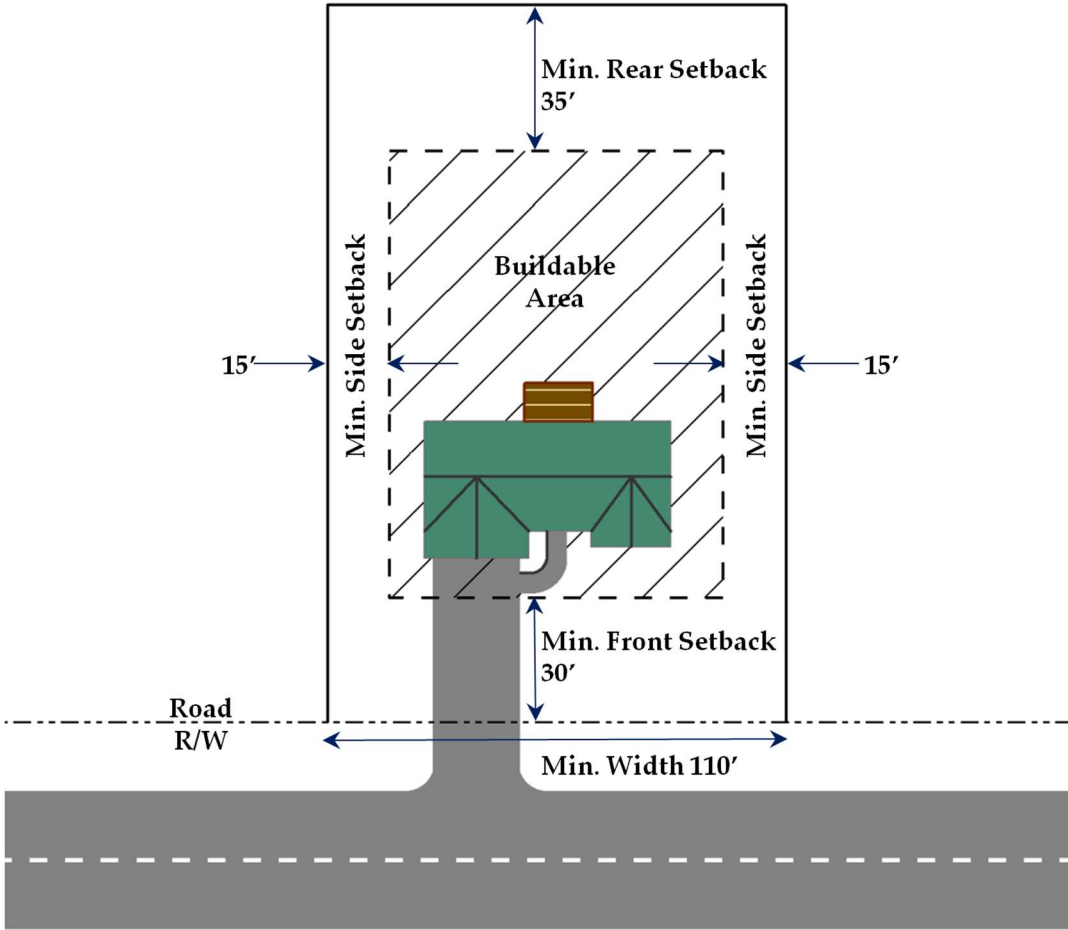
- (1) Driveways for single family residences shall comply with § 511.
- (2) Completion. Any single-family dwelling, accessory building or addition thereto must be completed on the exterior surface with a suitable finishing material including painting or staining in the case of wood, within two (2) years from date of issuance of a land use permit or one (1) year from the date of occupancy whichever occurs last.

**E. DIMENSIONAL STANDARDS (Per Dwelling Unit):**

- Minimum Lot Area (A):** 43,560 sq. ft.
- Minimum Lot Width:** 110 feet
- Maximum Building Height:**
  - In Stories: 2 ½ stories
  - In Feet: 35 feet

**Notes to Dimensional Standards:**  
 (A) Lots in subdivisions having stubbed sewers shall be considered as having public sewer.  
 (B) Setbacks shall be measured from the furthest protruding point of structure.

- Minimum Yard Setbacks (B):**
  - Front: 30 feet
  - Each Side: 15 feet
  - Rear: 35 feet
- Maximum Lot Coverage:** 20 percent
- Minimum Bldg. Cross Section:** 24 feet



*\*Not to scale. To be used for illustrative purposes only\**

## SECTION 317 R-M (MOBILE HOME RESIDENTIAL)

**PURPOSE** – The R-M (Mobile Home Residential) districts provide areas for mobile home subdivisions and mobile home parks. The districts include areas of existing developments as well as areas proposed and approved for such development. They are intended to encourage medium to high density mobile home subdivisions and mobile home park developments where adequate public facilities and services exist with capacity to serve such development. The R-M districts are designed to encourage a suitable neighborhood environment for family life by including among the permitted uses facilities that will support and promote a sense of community.

### **A. USES PERMITTED BY RIGHT:**

- (1) Adult Foster Care, Family Home – § 707
- (2) Child Care, Family Home (<7) – § 718
- (3) Essential Service Facility, Minor – § 737.A
- (4) Mobile Home
- (5) Park, Mini
- (6) Solar Energy System, Accessory – § 773.A

### **B. USES PERMITTED BY SPECIAL CONDITIONS:**

- (1) Mobile Home Park – § 759
- (2) Mobile Home Subdivision

### **C. USES PERMITTED BY SPECIAL USE PERMIT:**

- (1) Child Care Center – § 720
- (2) Essential Service Facility, Major – § 737.B
- (3) Solar Energy System, Primary – § 773.B
- (4) Wind Energy Conversion System, Personal – § 781

### **D. ADDITIONAL STANDARDS:**

(Reserved)

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## SECTION 318 C-L LOCAL COMMERCIAL

**PURPOSE** – The C-L (Local Commercial) districts provide nodal areas for convenient, day-to-day retail shopping and service facilities, servicing persons in the adjacent residential areas and designed in scale with surrounding residential uses. The districts include areas of existing commercial use as well as areas proposed and approved for such development. Due to their local service nature, C-L districts are likely to be stand alone, or small collective sites located to minimize impact upon the surrounding residential areas. C-L district regulations are designed to protect abutting and surrounding residential areas by requiring certain minimum yard and area standards which are compatible to those called for in the residential districts. These districts are also intended to reduce automobile trips by permitting a limited group of commercial uses to be located near residential areas.

### **A. USES PERMITTED BY RIGHT:**

- (1) Adult Foster Care, Large Group Home – § 709
- (2) Essential Service Facility, Minor – § 737.A
- (3) Financial Institution, without Drive-Through
- (4) Marina
- (5) Medical Office, Clinic
- (6) Off-Site Parking
- (7) Office
- (8) Park, Mini
- (9) Retail, Low Volume
- (10) Service Establishment, Personal
- (11) Solar Energy System, Accessory – § 773.A

### **B. USES PERMITTED BY SPECIAL CONDITIONS:**

- (1) Outdoor Sales, Temporary – § 762.C
- (2) Pet Shop – § 765
- (3) Restaurant, without Drive-Through – § 768
- (4) Service Establishment, Business – § 772
- (5) Veterinary Hospital

### **C. USES PERMITTED BY SPECIAL USE PERMIT:**

- (1) Adult Foster Care Facility – § 710
- (2) Child Care Center – § 720
- (3) Essential Service Facility, Major – § 737.B
- (4) Financial Institution, with Drive-Through – § 730
- (5) Gasoline Service Station – § 748
- (6) Institutional Uses and Structures – § 752
- (7) Mortuary or Funeral Home – § 760
- (8) Shopping Center, Local
- (9) Solar Energy System, Primary – § 773.B
- (10) Wind Energy Conversion System – § 780

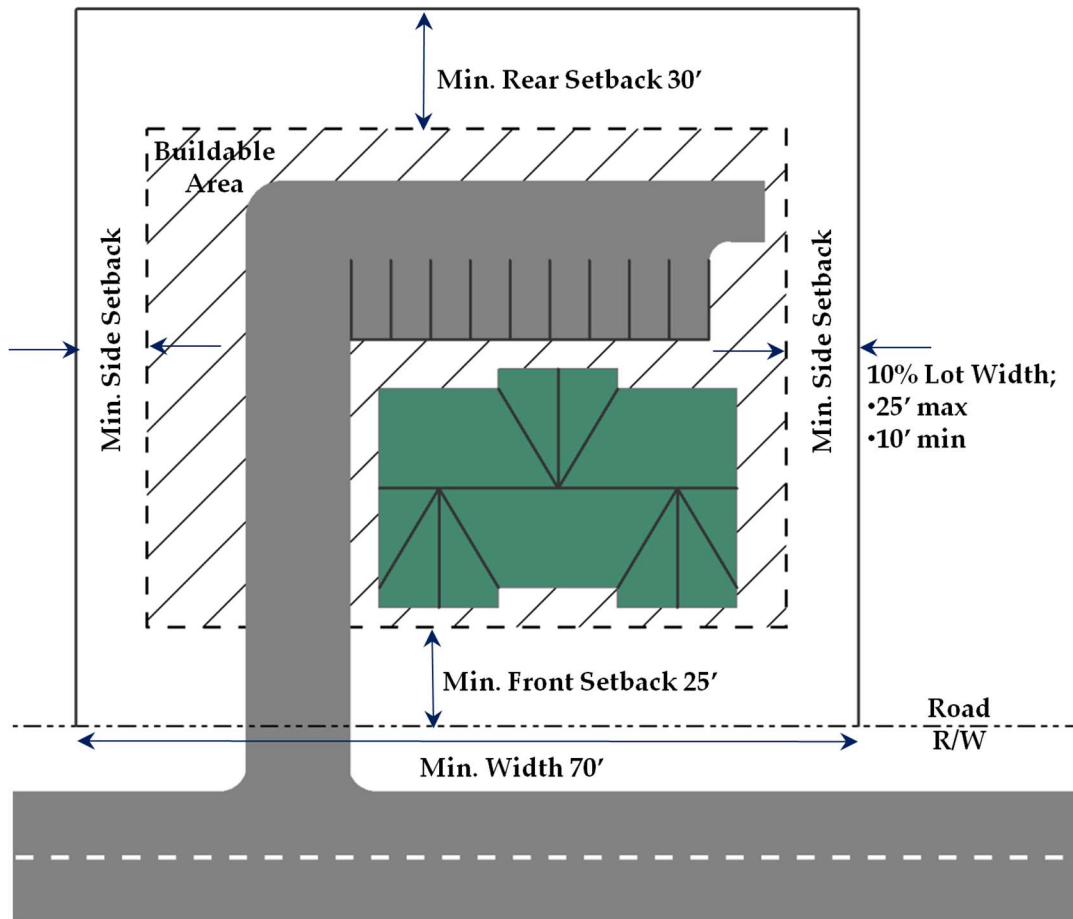


**D. DIMENSIONAL STANDARDS:**

<b>Minimum Lot Area:</b>	10,000 sq. ft.
<b>Minimum Lot Width:</b>	70 feet
<b>Maximum Building Height:</b>	
• In Stories:	2 stories
• In Feet:	28 feet
<b>Minimum Yard Setbacks (C):</b>	
• Front:	25 feet (A)
• Each Side:	(B)
• Rear:	30 feet
<b>Maximum Lot Coverage:</b>	-
<b>Minimum Bldg. Cross Section:</b>	24 feet

**Notes to Dimensional Standards:**

- (A) Front yards shall be appropriately landscaped and maintained, and, except for necessary drives and walks, shall remain clear and not be used for storage, parking, loading or accessory structures.
- (B) Side yards in the C-L District shall be ten percent (10%) of the lot width but need not exceed twenty-five (25) feet each, provided that no setback shall be less than ten (10) feet.
- (C) Setbacks shall be measured from the furthest protruding point of structure.



*\*Not to scale. To be used for illustrative purposes only\**

## SECTION 319 C-O OFFICE COMMERCIAL

**PURPOSE** – C-O (Office Commercial) districts provide areas for service-oriented enterprises and institutions having relatively low traffic generation. The districts include areas of existing office developments as well as areas within which such development appears likely and desirable. They are intended to facilitate the support and expansion of local business, while serving as a buffer between residential areas and more intensive commercial areas. The C-O districts are primarily restricted to office and ancillary uses that do not have peak weeknight or weekend usage to provide an orderly transition and buffers between uses.

### **A. USES PERMITTED BY RIGHT:**

- (1) Adult Foster Care, Large Group Home – § 709
- (2) Essential Service Facility, Minor – § 737.A
- (3) Financial Institution, without Drive-Through
- (4) Live-Work Unit
- (5) Medical Office, Clinic
- (6) Medical Office, Surgical Center
- (7) Office
- (8) Park, Mini
- (9) Pet Grooming Establishment
- (10) Professional Showroom
- (11) Professional Studio
- (12) Rehabilitation Center
- (13) Service Establishment, Personal
- (14) Solar Energy System, Accessory – § 773.A

### **B. USES PERMITTED BY SPECIAL CONDITIONS:**

- (1) Off-Site Parking
- (2) Research and Design Facility – § 767
- (3) Veterinary Hospital

### **C. USES PERMITTED BY SPECIAL USE PERMIT:**

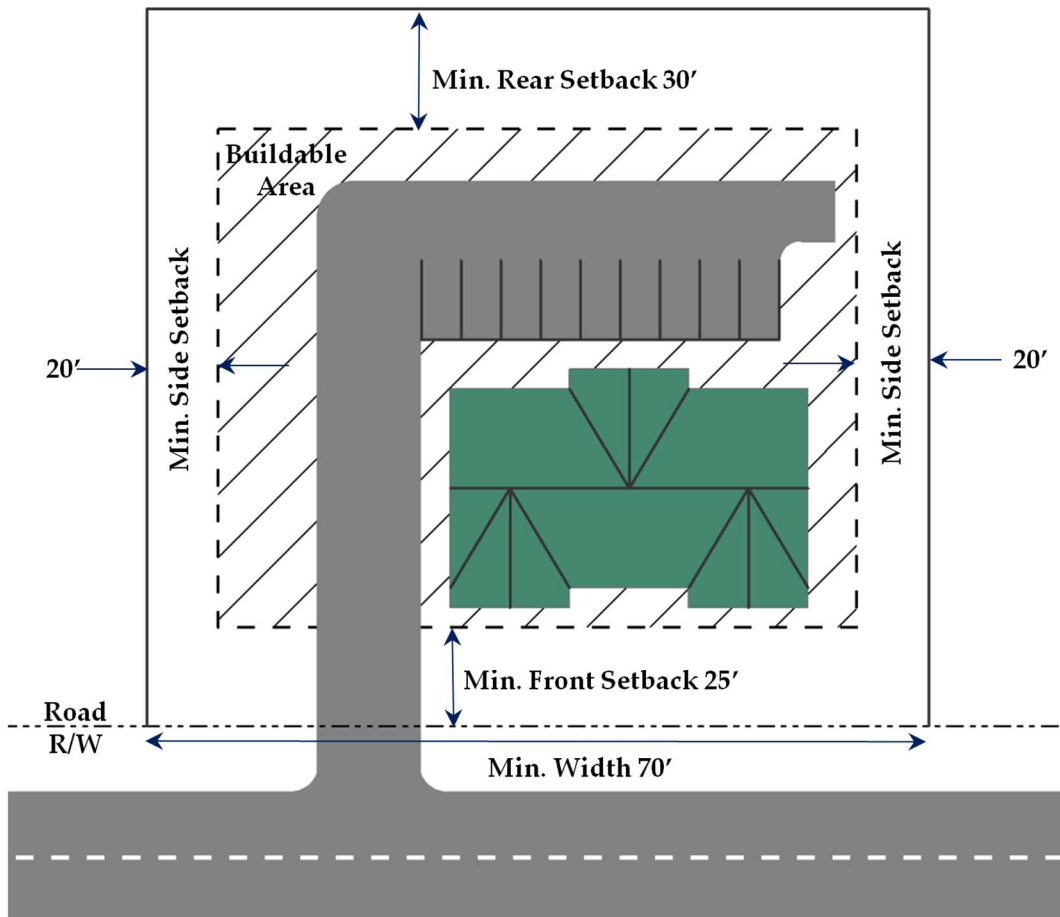
- (1) Adult Foster Care Facility – § 710
- (2) Child Care Center – § 720
- (3) Essential Service Facility, Major – § 737.B
- (4) Financial Institution, with Drive-Through – § 730
- (5) Institutional Uses and Structures – § 752
- (6) Solar Energy System, Primary – § 773.B

**D. DIMENSIONAL STANDARDS:**

<b>Minimum Lot Area:</b>	10,000 sq. ft.
<b>Minimum Lot Width:</b>	70 feet
<b>Maximum Building Height:</b>	
• In Stories:	2 stories
• In Feet:	22 feet
<b>Minimum Yard Setbacks (B):</b>	
• Front:	25 feet (A)
• Each Side:	20
• Rear:	30 feet
<b>Maximum Lot Coverage:</b>	-
<b>Minimum Bldg. Cross Section:</b>	24 feet

**Notes to Dimensional Standards:**

- (A) Front yards shall be appropriately landscaped and maintained, and, except for necessary drives and walks, shall remain clear and not be used for storage, parking, loading or accessory structures.
- (B) Setbacks shall be measured from the furthest protruding point of structure.



*\*Not to scale. To be used for illustrative purposes only\**

## SECTION 320 C-G GENERAL COMMERCIAL

**PURPOSE** – The C-G (General Commercial) districts provide areas for a broad range of commercial activities and services designed to cater to the needs of a large consumer base. The districts include areas of existing commercial developments as well as areas within which such development appears likely and desirable. They are intended to encourage more intensive commercial development in and near the core areas of the township. The C-G districts are designed to support diversification of the economic base that is compatible in use, character, and size to the site and the surrounding areas. The C-G districts generally allow for the same uses as the C-L Local Commercial districts as well as permitting several additional uses.

### **A. USES PERMITTED BY RIGHT:**

- (1) Adult Foster Care, Large Group Home – § 709
- (2) Auditorium or Assembly Hall
- (3) Bar, Tavern, or Night Club
- (4) Business College or Trade School
- (5) Essential Service Facility, Minor – § 737.A
- (6) Financial Institution, without Drive-Through
- (7) Hospital
- (8) Indoor Entertainment Center – § 751
- (9) Kennel – § 755
- (10) Marina
- (11) Mechanical Amusement Arcade
- (12) Medical Office, Clinic
- (13) Medical Office, Surgical Center
- (14) Off-Site Parking
- (15) Office
- (16) Outdoor Entertainment Center, Minor
- (17) Park, Mini
- (18) Passenger Terminal – § 764
- (19) Pet Grooming Establishment
- (20) Professional Studio
- (21) Recreational Facility – § 766
- (22) Restaurant, without Drive-Through – § 768
- (23) Retail, Low Volume
- (24) Retail, Medium Volume
- (25) Service Establishment, Business – § 772
- (26) Service Establishment, Personal
- (27) Solar Energy System, Accessory – § 773.A
- (28) Vehicle Dealership, without Outdoor Sales
- (29) Vehicle Service Center, Major
- (30) Vehicle Service Center, Minor

### **B. USES PERMITTED BY SPECIAL CONDITIONS:**

- (1) Adult Foster Care Facility – § 710
- (2) Child Care Center – § 720
- (3) Financial Institution, with Drive-Through – § 730
- (4) Gasoline Service Station – § 748
- (5) Hotel or Motel – § 750
- (6) Institutional Uses and Structures – § 752
- (7) Mortuary or Funeral Home – § 760
- (8) Outdoor Sales, Major – § 762.A
- (9) Outdoor Sales, Minor – § 762.B
- (10) Outdoor Sales, Temporary – § 762.C
- (11) Pet Shop – § 765
- (12) Sexually Oriented Businesses – § 640
- (13) Shopping Center, Local
- (14) Vehicle Dealership, with Outdoor Sales – § 762
- (15) Veterinary Hospital
- (16) Wholesaler – § 779

### **C. USES PERMITTED BY SPECIAL USE PERMIT:**

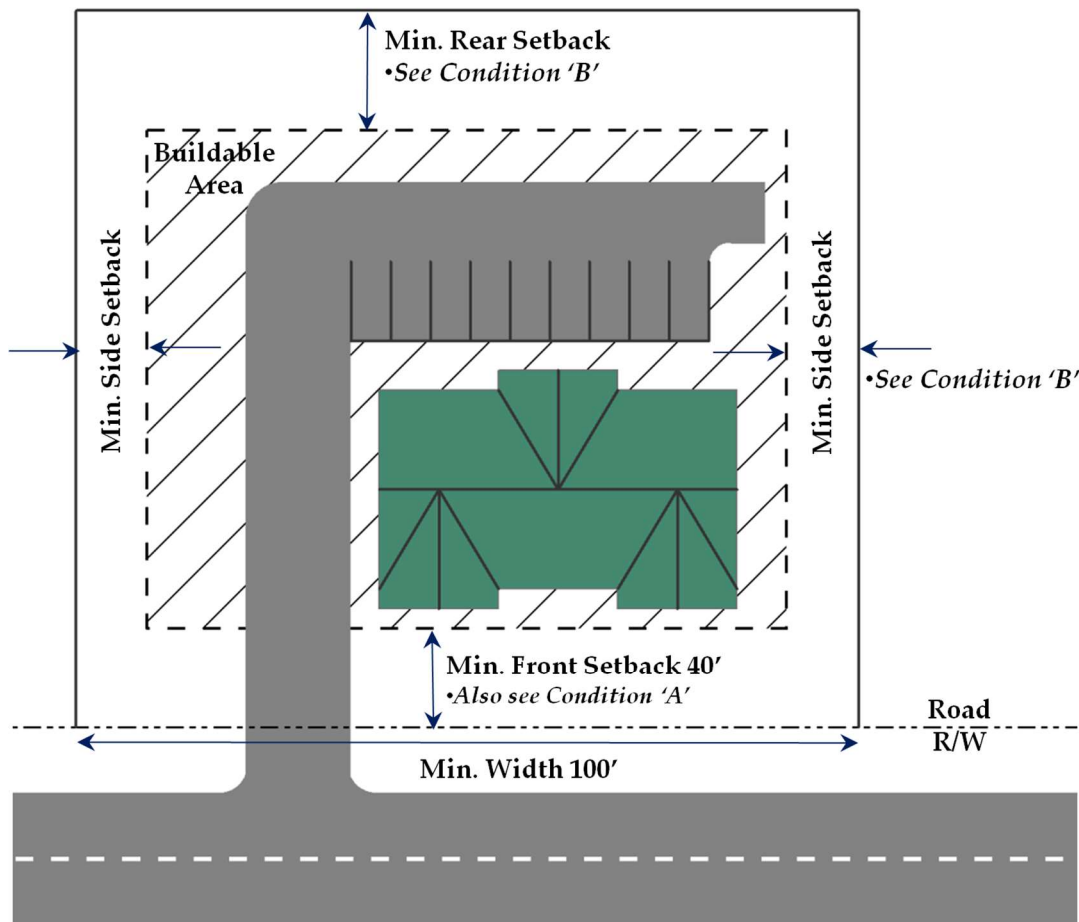
- (1) Car Wash – § 717
- (2) Commercial District Housing Development – § 725
- (3) Drive-In Business – § 730
- (4) Drive-Through Business – § 730
- (5) Essential Service Facility, Major – § 737.B
- (6) Restaurant, with Drive-Through – § 768 & § 730
- (7) Retail Fabricator – § 769
- (8) Retail, High Volume
- (9) Sale of Prefabricated Structures
- (10) Shopping Center, General
- (11) Solar Energy System, Primary – § 773.B
- (12) Wind Energy Conversion System – § 780
- (13) Wireless Communication Facilities – § 792

**D. DIMENSIONAL STANDARDS:**

<b>Minimum Lot Area:</b>	15,000 sq. ft.
<b>Minimum Lot Width:</b>	100 feet
<b>Maximum Building Height:</b>	
• In Stories:	-
• In Feet:	35 feet
<b>Minimum Yard Setbacks (C):</b>	
• Front:	40 feet (A)
• Each Side:	(B)
• Rear:	(B)
<b>Maximum Lot Coverage:</b>	-
<b>Minimum Bldg. Cross Section:</b>	24 feet

**Notes to Dimensional Standards:**

- (A) Front setbacks in the C-G District:
- i. Front yards shall be forty (40) feet, except when all frontage on one side of a street within a block is zoned C-G and when forty percent (40%) or more of a block has been developed with buildings, the average setback of said existing buildings shall apply.
  - ii. Setbacks along South Airport Road, north of South Airport Road between Barlow Road and the Cherryland Mall, shall be as required in the C-L District.
- (B) Side and rear yards in the C-G District shall be ten percent (10%) of the lot width and depth, respectively, but need not exceed twenty-five (25) feet each, provided that no setback shall be less than ten (10) feet.
- (C) Setbacks shall be measured from the furthest protruding point of structure.



*\*Not to scale. To be used for illustrative purposes only\**

## SECTION 321 C-H HIGHWAY COMMERCIAL

**PURPOSE** – The C-H (Highway Commercial) districts provide areas for retail business and service activities that generate a considerable amount of traffic and may be appropriately developed on an arterial or major collector road. The districts include areas of existing commercial development as well as areas within which such development appears likely and desirable. They are intended to encourage appropriate automobile-oriented development on and near the arterial and major collector streets of the Township. The C-H district regulations are designed to minimize the undesirable effects of commercial strip development, avoid undue congestion on major highways and at major intersections, and to encourage cross-access and shared access between commercial properties via service drives.

### **A. USES PERMITTED BY RIGHT:**

- (1) Adult Foster Care, Large Group Home – § 709
- (2) Auditorium or Assembly Hall
- (3) Bar, Tavern, or Night Club
- (4) Drive-In Business – § 730
- (5) Drive-Through Business – § 730
- (6) Essential Service Facility, Minor – § 737.A
- (7) Financial Institution, with Drive-Through – § 730
- (8) Financial Institution, without Drive-Through
- (9) Hospital
- (10) Mechanical Amusement Arcade
- (11) Medical Office, Clinic
- (12) Medical Office, Surgical Center
- (13) Office
- (14) Park, Mini
- (15) Passenger Terminal – § 764
- (16) Restaurant, with Drive-Through – § 768 & § 730
- (17) Restaurant, without Drive-Through – § 768
- (18) Retail, Low Volume
- (19) Retail, Medium Volume
- (20) Retail, High Volume
- (21) Service Establishment, Business – § 772
- (22) Service Establishment, Personal
- (23) Solar Energy System, Accessory – § 773.A
- (24) Vehicle Service Center, Major
- (25) Vehicle Service Center, Minor
- (26) Veterinary Hospital

### **B. USES PERMITTED BY SPECIAL CONDITIONS:**

- (1) Gasoline Service Stations – § 748
- (2) Hotel or Motel – § 750
- (3) Indoor Entertainment Center – § 751
- (4) Outdoor Sales, Major – § 762.A
- (5) Outdoor Sales, Minor – § 762.B
- (6) Outdoor Sales, Temporary – § 762.C
- (7) Recreational Facility
- (8) Vehicle Dealership, with Outdoor Sales – § 762
- (9) Vehicle Dealership, without Outdoor Sales

### **C. USES PERMITTED BY SPECIAL USE PERMIT:**

- (1) Adult Foster Care Facility – § 710
- (2) Campground or Travel Trailer Park – § 716
- (3) Child Care Center – § 720
- (4) Commercial District Housing Development – § 725
- (5) Essential Service Facility, Major – § 737.B
- (6) Institutional Uses and Structures – § 752
- (7) Solar Energy System, Primary – § 773.B
- (8) Wireless Communication Facilities – § 792

## **D. SITE DEVELOPMENT REQUIREMENTS**

### **(1) General**

Applications for development within the C-H district shall be reviewed by the Planning Commission for compliance with Article 4, § 424 - Site Plans and Article 5 – Development Standards.

### **(2) External Access**

All site plan proposals submitted under the requirements of the Highway Commercial District shall provide for the proper handling of traffic on the highway, frontage road, or street giving access to the district. No access by motor vehicles other than stated herein shall be permitted to a minor or residential street. All points of entrance or exit for motor vehicles shall be no closer than fifty (50) feet from the intersection of the right-of-way lines of two streets. When a Highway Commercial District is located adjoining or within one-half (½) mile of an existing or proposed state or interstate limited access highway interchange, the Planning Commission shall determine that an acceptable traffic safety relationship exists between the owner's or lessee's site plan and the design of the state or interstate facility. The proposed site development within the Highway Commercial District shall not be so located and designed so that unsafe traffic congestion results on the interchange facilities of the limited access highway.

### **(3) Transition Strips**

A fifty (50) foot wide strip of land shall be provided on any side of a C-H District which abuts a residential or agricultural zone. This strip shall serve as a transition between the subject use and the adjacent property uses, both existing and future. No part of this transition strip shall be used for any of the site functions except that thirty (30) feet thereof may be used for parking area. The transition strip shall be occupied by plant materials or structural fences or walls, used separately or in combination. The plans and specifications for site development shall include the proposed arrangement for such plantings and structures.

### **(4) Service Roads**

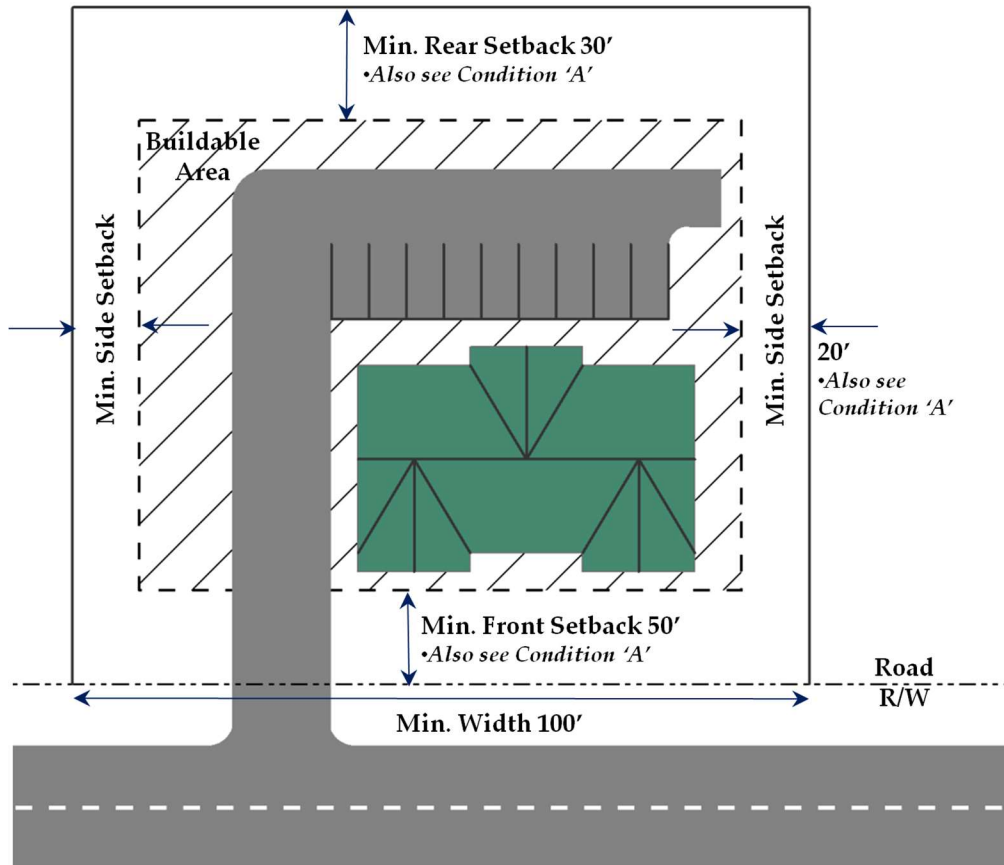
In order to achieve a well-planned center, the Planning Commission may require access to the business facilities from an interior service road at least twenty-four (24) feet wide which shall be established in order to provide the major means of access to the planned commercial area. The site plan layout shall be such that access to commercial center parking lots shall be from the interior road and not from the major thoroughfare. In those instances where the Planning Commission finds that an extensive number of ingress or egress points may occur with relation to major thoroughfares, they may require roads twenty-four (24) feet width paralleling said thoroughfare and, in addition, may require the development of parking so that contiguous lots on abutting properties will allow traffic circulation from one property to another without re-entering the public thoroughfare.

**E. DIMENSIONAL STANDARDS:**

<b>Minimum Lot Area:</b>	10,000 sq. ft.
<b>Minimum Lot Width:</b>	100 feet
<b>Maximum Building Height:</b>	-
• In Stories:	-
• In Feet:	35 feet
<b>Minimum Yard Setbacks (B):</b>	
• Front:	50 feet (A)
• Each Side:	20 feet (A)
• Rear:	30 feet (A)
<b>Maximum Lot Coverage:</b>	N/A
<b>Minimum Bldg. Cross Section:</b>	24 feet

**Notes to Dimensional Standards:**

- (A) There shall be included as an integral part of any site development within the C-H District, a strip of land fifty (50) feet or more in width on all sides which abut a residential or agricultural district, except on the side fronting on a major street or highway. This strip shall serve as a transition between the subject use and the adjacent property uses, both existing and future. No part of this transition strip shall be used for any of the site functions except that thirty (30) feet thereof may be used for parking area. Further, the transition strip shall be occupied by plant materials or structural fences or walls, used separately or in combination. The plans and specifications for site development shall include the proposed arrangement for such plantings and structures.
- (B) Setbacks shall be measured from the furthest protruding point of structure.





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## SECTION 322 C-P PLANNED SHOPPING CENTER

**PURPOSE** – It is the intent of the C-P (Planned Shopping) Districts to recognize the various areas of our community that have been developed in a grouped retail setting with department store anchors and expansive parking areas. These planned centers are typically located on a single, unified site and are designed and constructed as an integrated unit for shopping and other business activity. This section recognizes the transition from antiquated development patterns and encourages multi-use, multi-story, infill development of the parking areas to create a more pedestrian-friendly, mixed-use area. Multi-story structures are encouraged.

### **A. USES PERMITTED BY RIGHT:**

- (1) Auditorium or Assembly Hall
- (2) Bar, Tavern, or Night Club
- (3) Commercial District Housing Development – § 725
- (4) Drive-In Business – § 730
- (5) Drive-Through Business – § 730
- (6) Essential Service Facility, Minor – § 737.A
- (7) Financial Institution, with Drive-Through – § 730
- (8) Financial Institution, without Drive-Through
- (9) Hospital
- (10) Hotel or Motel – § 750
- (11) Indoor Entertainment Center – § 751
- (12) Live-Work Unit
- (13) Medical Office, Clinic
- (14) Medical Office, Surgical Center
- (15) Office
- (16) Park, Mini
- (17) Pet Shop – § 765
- (18) Professional Studio
- (19) Recreational Facility – § 766
- (20) Restaurant, with Drive-Through – § 768 & § 730
- (21) Restaurant, without Drive-Through – § 768
- (22) Retail, Low Volume
- (23) Retail, Medium Volume
- (24) Retail, High Volume
- (25) Service Establishment, Business – § 772
- (26) Service Establishment, Personal
- (27) Solar Energy System, Accessory – § 773.A

### **B. USES PERMITTED BY SPECIAL USE PERMIT:**

- (1) Essential Service Facility, Major – § 737.B
- (2) Solar Energy System, Primary – § 773.B

**C. DIMENSIONAL STANDARDS:**

**Minimum Lot Area:** 15,000 sf

**Minimum Lot Width:** 60 ft

**Maximum Building Height:**

• In Stories: 4

• In Feet: 50 ft

**Maximum Yard Setbacks (B)(C)(D):**

• **Front:** 10 ft (30 ft)

• **Minimum Yard Setback (C)(D):**

**Each Side:** 10 ft (30 ft)

**Rear:** 30 ft

**Notes to Dimensional Standards:**

(A) Any structure proposed over 25 feet in height shall file a 7460-1 form with the FAA. If at any time the FAA restricts a structure to a lesser height than the district maximum, the FAA restriction shall prevail and made a condition of any approval.

(B) Setbacks shall be measured from the furthest protruding point of structure.

(C) A fifty (50) foot wide vegetative strip of land shall be provided on any side of a C-P District which abuts a residential or agricultural zone.

(D) For lots at the periphery of the Shopping Center that do not abut a residential or agricultural zone, refer to setback distances in parentheses.

**D. SITE DEVELOPMENT REQUIREMENTS**

**(1) General**

Applications for development, re-development, or infill development within the C-P District shall be reviewed by the Planning Commission for compliance with Article 4, § 424 - Site Plans and Article 5 – Development Standards. A comprehensive development plan may be required for the entire center to establish an approved development pattern within the District.

**(2) External Access**

All site plan proposals submitted under the requirements of the C-P Planned Shopping District shall provide for the proper handling of traffic and pedestrians throughout the site. The site plan shall limit ingress and egress along major thoroughfares and access properties by way of internal service drives and pedestrian walkways.

**(3) Internal Pedestrian Circulation**

a. Sidewalks shall be constructed within the interior of the development to link buildings with other destinations, such as, but not limited to, other buildings, parking, adjoining streets, and adjoining sidewalks.

b. All internal sidewalks shall be constructed of raised concrete, measuring no less than five (5) feet in width and six (6) inches in height to provide safe walkways by separating motorized from non-motorized transportation.

c. Clearly marked pedestrian crossing areas shall be demarcated at all pedestrian crossings.

**(4) Non-Motorized Pathways**

Public pathways shall be constructed for all new development, re-developments, and amendments to previously approved site development plans, including substantial additions or improvements to existing buildings with a construction cost of twenty-thousand dollars (\$20,000.00) or more within a twelve (12) month period.

a. Non-motorized pathways may be constructed within the public street right-of-way or upon private

property subject to an appropriate public access easement being recorded.

- b. All reasonable effort shall be made to avoid cutting trees when placing the pathway.

**(5) Building Placement**

Buildings shall be placed in a manner that encourages pedestrian circulation and connectivity among the various out lots and internal uses.

- a. All buildings shall be located adjacent to a curbed internal roadway with the prominent building wall facing the roadway or access drive.
- b. Buildings fronting an internal roadway or access drive shall be accessible by pedestrian walkways.

**(6) Vegetative Transition Strip**

- a. A fifty (50) foot wide vegetative strip of land shall be provided on any side of a C-P District which abuts a residential or agricultural zone. This strip shall serve as a pervious transition between the subject use and the adjacent uses, both existing and future. The transition strip shall be occupied by plant materials with a combination of structural fences or walls appropriately located to minimize noise and maximize aesthetics for neighboring properties.
- b. The plans and specifications for site development shall include the proposed arrangement for such plantings and structures as required by Sections 530 and 531.

**(7) Service Drives**

- a. In order to achieve a well-planned center, the Planning Commission may require access to the business facilities from an interior service drive which shall be established in order to provide the major means of access to the planned commercial area.
- b. The site plan layout shall be such that access to commercial center parking lots shall be from the interior drive and not from the major thoroughfare.

**(8) Prohibited Outdoor Storage**

The following are prohibited:

- a. The storage of inventory in areas designated for uses such as walking, parking, vehicular travel, green space, landscape buffer, or stormwater retention and snow storage area.
- b. The parking of vehicles, trailers, inventory, or car ramps for the purpose of advertising or business identification in parking areas or adjacent to any roadway.

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## SECTION 323 I-G GENERAL MIXED-USE INDUSTRIAL BUSINESS

**PURPOSE** – The intent of the General Mixed Use Industrial Business (I-G) District is to remain primarily industrial in nature while allowing a limited number of non-industrial uses that are envisioned as accessory or complimentary to existing and future industrial uses of the districts. Non-industrial uses of property within these districts are subject to industrial impacts from adjacent parcels including, but not limited to, noise, dust, and vibrations.

### A. USES PERMITTED BY RIGHT:

- (1) Catering Establishment
- (2) Contractor's Establishment
- (3) Data Center and Computer Operations
- (4) Essential Service Facility, Minor – § 737.A
- (5) Indoor Entertainment Center – § 751
- (6) Kennel – § 755
- (7) Live-Work Unit
- (8) Lumber Processing and Sawmill – § 756
- (9) Manufacturing, Light
- (10) Park, Mini
- (11) Park, Neighborhood
- (12) Passenger Terminal – § 764
- (13) Pet Grooming Establishment
- (14) Printing or Publishing Enterprise
- (13) Recreational Facility – § 766
- (14) Retail, Industrial Accessory – § 611
- (15) Small Warehousing Establishment
- (16) Solar Energy System, Accessory – § 773.A
- (17) Transportation Dispatch Center
- (18) Vehicle Service Center, Major
- (19) Veterinary Hospital
- (20) Warehouse or Distribution Center
- (21) Wholesaler – § 779

### B. USES PERMITTED BY SPECIAL CONDITIONS:

- (1) Business College or Trade School
- (2) Dry Cleaning Plant
- (3) Medical Marijuana Cultivation Facility – § 757
- (4) Outdoor Storage, Primary Use – § 763
- (5) Research and Design Facility – § 767
- (6) Vehicle Dealership, without Outdoor Sales

### C. USES PERMITTED BY SPECIAL USE PERMIT:

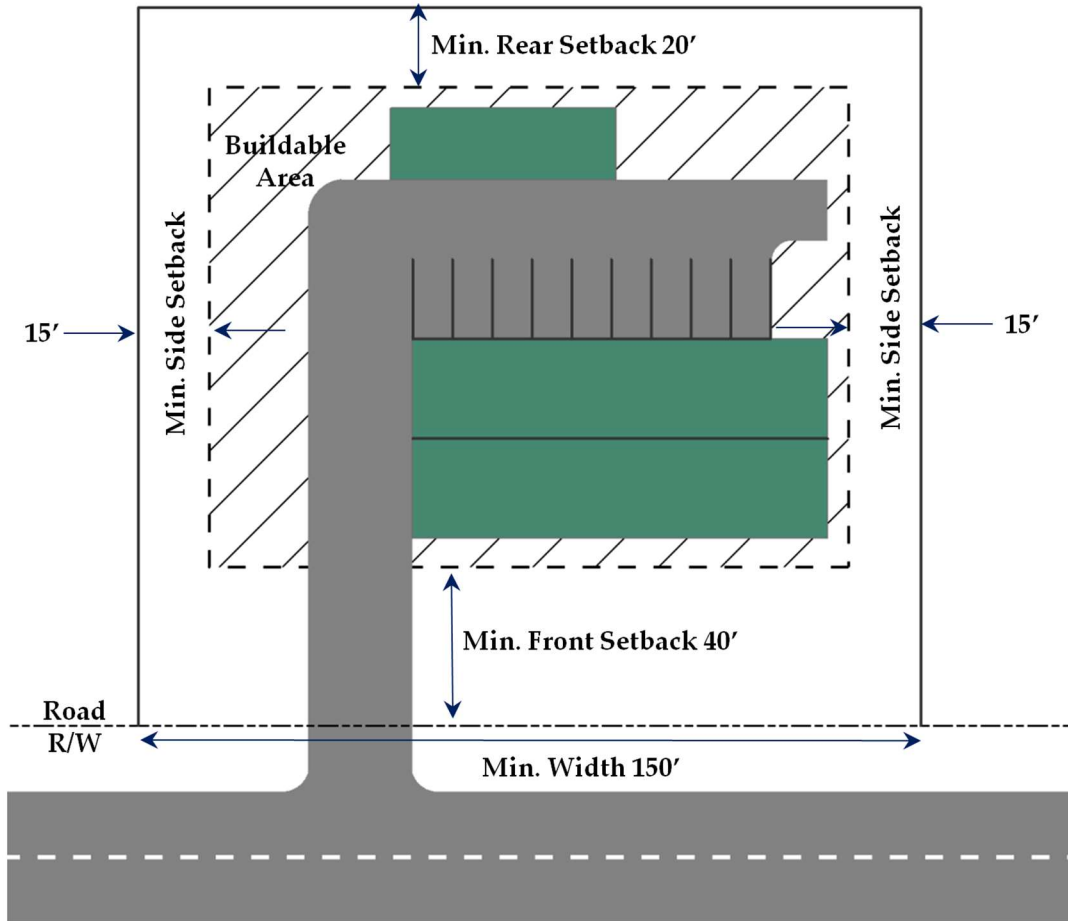
- (1) Car Wash – § 717
- (2) Crematorium – § 727
- (3) Essential Service Facility, Major – § 737.B
- (4) Gasoline Service Station – § 748
- (5) Institutional Uses and Structures – § 752
- (6) Mechanical Amusement Arcades
- (7) Mortuary or Funeral Home – § 760
- (8) Office
- (9) Off-Site Parking
- (10) Outdoor Sales, Major – § 762.A
- (11) Pet Shop – § 765
- (12) Processing Operation
- (13) Professional Studio
- (14) Retail, Industrial Primary – § 770
- (15) Solar Energy System, Primary – § 773.B
- (16) Truck or Rail Freight Terminal
- (17) Vehicle Dealership, with Outdoor Sales – § 762
- (18) Vehicle Service Center, Minor
- (19) Wind Energy Conversion System – § 780
- (20) Wireless Communication Facilities – § 792

**D. DIMENSIONAL STANDARDS:**

<b>Minimum Lot Area:</b>	N/A
<b>Minimum Lot Width:</b>	150 feet
<b>Maximum Building Height:</b>	
• In Stories:	-
• In Feet:	35 feet
<b>Minimum Yard Setbacks (B):</b>	
• Front:	40 feet (A)
• Each Side:	15 feet
• Rear:	20 feet
<b>Maximum Lot Coverage:</b>	N/A
<b>Minimum Bldg. Cross Section:</b>	24 feet

**Notes to Dimensional Standards:**

- (A) Front yards shall be appropriately landscaped and maintained, and, except for necessary drives and walks, shall remain clear and not be used for storage, parking, loading or accessory structures.
- (B) Setbacks shall be measured from the furthest protruding point of structure.



*\*Not to scale. To be used for illustrative purposes only\**

**E. ADDITIONAL STANDARDS:**

In addition to the following requirements, all principal permitted uses and special land uses shall comply with all applicable provisions of this ordinance, including but not limited to bulk, density, lighting, landscaping, parking, and setbacks.

- (1) Uses, including outdoor storage, in this District shall conform to the following standards:
  - (a) Emit no obnoxious, toxic, or corrosive fumes or gases which are deleterious to the public health, safety or general welfare; except for those produced by internal combustion engines under designed operating conditions
  - (b) Discharge no radioactive materials that exceed quantities established by the U.S. Bureau of Standards
  - (c) Does not include, in the manufacturing process, any production or storage of any material designed for use as an explosive, nor the use of any such material in production
  
- (2) Yards in this District shall conform to the following standards:
  - (a) Except for landscape improvements and necessary drives and walks, the front yard shall remain clear, and shall not be used for parking, loading, or accessory structures. Side and rear yards, except for any landscaping buffer as required elsewhere in this ordinance, may be used for parking and loading.
  - (b) The side or rear yard may be eliminated where a railroad service to the site is obtained or may be obtained at the edge of the lot.
  - (c) When the side or rear yard areas abut land within a residential district and when such yard areas are to be used for parking, loading, unloading, or servicing, then such side and rear yard areas shall be effectively screened by a solid, uniformly finished fence. Alternatively, the Zoning Administrator may approve the use of landscaping treatment, together with or in place of a fence or wall that will provide equal or better screening of the yard areas used for these purposes.
  
- (3) The Planning Commission, through an application for special use permit approval, shall have the authority to modify the use requirements listed in subsections F(1) and F(2) above based upon appropriate findings of fact that:
  - (a) The proposed modification is appropriate for the site, compatible with surrounding land uses, and necessary for the reasonable use of the parcel, and
  - (b) The proposed modification is, in the determination of the Planning Commission, the minimum necessary to ensure the reasonable use of the parcel while remaining compatible with surrounding land uses.
  
- (4) Potential Impacts on Neighboring Properties. By nature, a number of uses permitted in the district commonly generate industrial side effects that may be physically perceived on surrounding properties. To help ensure compatibility between adjacent properties, proposed site plans shall be designed to limit the impact of fumes, gases, noise, smoke, dust, heat, glare, and vibrations that may project beyond the boundary of the subject property. Prior to approval of a use that may reasonably be expected to generate perceptible impacts on neighboring properties, a finding shall be made by the reviewing body that reasonable attempts, in consideration of generally acceptable industrial impacts and the character of the site and surrounding area, have been made to limit these impacts.
  
- (5) Nonconformities. In addition to the standards of Article 8 of this Ordinance, the following standards shall apply within this District. In the case of conflict with the standards of Article 8, the following standards shall prevail.



- (a) Any use or structure that legally existed on the date of adoption of this ordinance shall be permitted to continue, including necessary maintenance of any structure. In the instance of an event beyond the control of a landowner necessitating the replacement of a portion or the entirety of a nonconforming structure, such replacement shall be recognized for the purpose of this district to be permitted by right provided all requirements governing a non-conforming use or structure, including applicable Zoning Board of Appeals procedures, are deemed to be satisfied.
  - (b) Expansion of Legal Existing Use. An existing use lawfully established prior to the adoption of this Ordinance shall be permitted to expand, subject to review in accordance with any applicable Site Plan Review standards, and only to the extent of the property boundaries as established as of the effective date of this Ordinance. Any Special Use review criteria that would otherwise be required for the establishment of a new use may be waived in whole or in part by the Director of Planning.
  - (c) Change in Use of Legal Existing Structure. Where a use is proposed to be established within an existing lawfully built structure and where no physical site modifications to the exterior of the site will be made, the Site Plan Review standards of § 424 may be waived in whole or in part by the Director of Planning. However, if the proposed use is identified as a Special Use within the District, then the establishment of such use shall be subject to review in accordance with the Special Use Permit review standards of § 423, Special Use Permits.
- (6) Conflicting Review Requirements for Development Approval. Where a proposal includes more than one on-site use, with one or more use(s) permitted by-right and the other(s) requiring Special Use review, all uses permitted by-right may be administratively approved prior to the applicant obtaining Planning Commission approval for uses requiring a Special Use Permit. In such a case, the by-right portion of the site shall be designed in a manner that facilitates the independent function of the by-right use(s), including any required access drives, parking, and non-motorized facilities.

## SECTION 324 I-L LIMITED MIXED-USE INDUSTRIAL BUSINESS

**PURPOSE** – The intent of the Limited Mixed Use Industrial Business (I-L) District is to remain highly industrial in nature while allowing a limited number of non-industrial uses that are envisioned as accessory or complimentary to existing and future industrial uses of the districts. Non-industrial uses of property within these districts are subject to industrial impacts from adjacent parcels including, but not limited to, noise, dust, and vibrations. The Planning Commission will attempt to limit these adverse impacts when considering development applications.

### A. USES PERMITTED BY RIGHT:

- (1) Catering Establishment
- (2) Contractor’s Establishment
- (3) Data Center and Computer Operations
- (4) Essential Service Facility, Minor – § 737.A
- (5) Indoor Entertainment Center – § 751
- (6) Live-Work Unit
- (7) Lumber Processing and Sawmill – § 756
- (8) Manufacturing, Heavy
- (9) Manufacturing, Light
- (10) Park, Mini
- (11) Park, Neighborhood
- (12) Passenger Terminal – § 764
- (13) Printing or Publishing Enterprise
- (14) Recreational Facility – § 766
- (15) Retail, Industrial Accessory – § 611
- (16) Small Warehousing Establishment
- (17) Solar Energy System, Accessory – § 773.A
- (18) Transportation Dispatch Center
- (19) Vehicle Service Center, Major
- (20) Warehouse or Distribution Center
- (21) Wholesaler – § 779

### B. USES PERMITTED BY SPECIAL CONDITIONS:

- (1) Business College or Trade School
- (2) Dry Cleaning Plant
- (3) Medical Marihuana Cultivation Facility – § 757
- (4) Outdoor Storage, Primary Use – § 763
- (5) Research and Design Facility – § 767

### C. USES PERMITTED BY SPECIAL USE PERMIT:

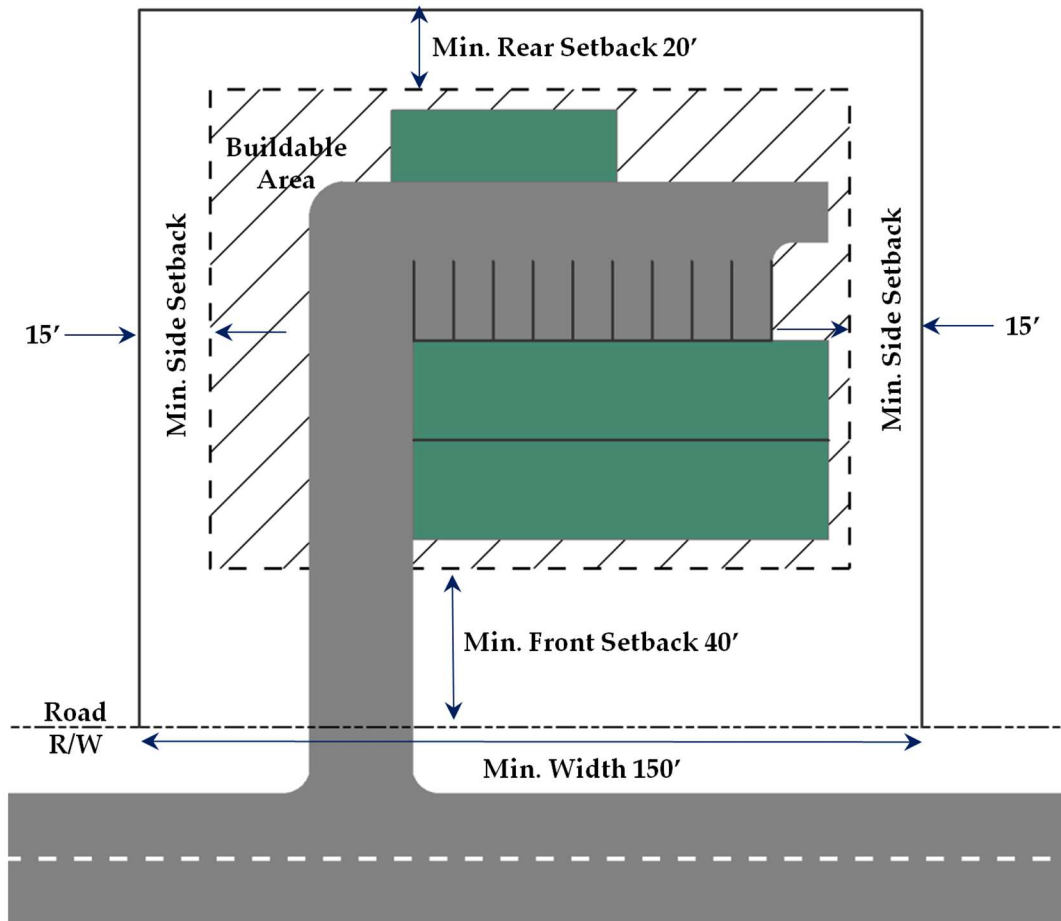
- (1) Car Wash – § 717
- (2) Crematorium – § 727
- (3) Essential Service Facility, Major – § 737.B
- (4) Gasoline Service Station – § 748
- (5) Incinerator
- (6) Institutional Uses and Structures – § 752
- (7) Junk Yard – § 753
- (8) Metal Plating, Buffering, and Polishing
- (9) Off-Site Parking
- (10) Outdoor Entertainment Center, Major – § 761
- (11) Processing Operation
- (12) Recycling Facility
- (13) Sand or Gravel Pit, Quarry – § 771
- (14) Solar Energy System, Primary – § 773.B
- (15) Truck or Rail Freight Terminal
- (16) Vehicle Service Center, Minor
- (17) Warehouse or Distribution Center, Hazardous Materials – § 777
- (18) Wind Energy Conversion System – § 780
- (19) Wireless Communication Facility – § 792

**D. DIMENSIONAL STANDARDS:**

<b>Minimum Lot Area:</b>	N/A
<b>Minimum Lot Width:</b>	150 feet
<b>Maximum Building Height:</b>	
• In Stories:	-
• In Feet:	35 feet
<b>Minimum Yard Setbacks (B):</b>	
• Front:	40 feet (A)
• Each Side:	15 feet
• Rear:	20 feet
<b>Maximum Lot Coverage:</b>	N/A
<b>Minimum Bldg. Cross Section:</b>	24 feet

**Notes to Dimensional Standards:**

- (A) Front yards shall be appropriately landscaped and maintained, and, except for necessary drives and walks, shall remain clear and not be used for storage, parking, loading or accessory structures.
- (B) Setbacks shall be measured from the furthest protruding point of structure.



*\*Not to scale. To be used for illustrative purposes only\**

**E. ADDITIONAL STANDARDS:**

In addition to the following requirements, all principal permitted uses and special land uses shall comply with all applicable provisions of this ordinance, including but not limited to bulk, density, lighting, landscaping, parking, and setbacks.

- (1) Uses, including outdoor storage, in this District shall conform to the following standards:
  - (a) Emit no obnoxious, toxic, or corrosive fumes or gases which are deleterious to the public health, safety or general welfare; except for those produced by internal combustion engines under designed operating conditions
  - (b) Discharge no radioactive materials that exceed quantities established by the U.S. Bureau of Standards
  - (c) Does not include, in the manufacturing process, any production or storage of any material designed for use as an explosive, nor the use of any such material in production
  
- (2) Yards in this District shall conform to the following standards:
  - (a) Except for landscape improvements and necessary drives and walks, the front yard shall remain clear, and shall not be used for parking, loading, or accessory structures. Side and rear yards, except for any landscaping buffer as required elsewhere in this ordinance, may be used for parking and loading.
  - (b) The side or rear yard may be eliminated where a railroad service to the site is obtained or may be obtained at the edge of the lot.
  - (c) When the side or rear yard areas abut land within a residential district and when such yard areas are to be used for parking, loading, unloading, or servicing, then such side and rear yard areas shall be effectively screened by a solid, uniformly finished fence. Alternatively, the Zoning Administrator may approve the use of landscaping treatment, together with or in place of a fence or wall that will provide equal or better screening of the yard areas used for these purposes.
  
- (3) The Planning Commission, through an application for special use permit approval, shall have the authority to modify the use requirements listed in subsections F(1) and F(2) above based upon appropriate findings of fact that:
  - (a) The proposed modification is appropriate for the site, compatible with surrounding land uses, and necessary for the reasonable use of the parcel, and
  - (b) The proposed modification is, in the determination of the Planning Commission, the minimum necessary to ensure the reasonable use of the parcel while remaining compatible with surrounding land uses.
  
- (4) Potential Impacts on Neighboring Properties. By nature, a number of uses permitted in the district commonly generate industrial side effects that may be physically perceived on surrounding properties. To help ensure compatibility between adjacent properties, proposed site plans shall be designed to limit the impact of fumes, gases, noise, smoke, dust, heat, glare, and vibrations that may project beyond the boundary of the subject property. Prior to approval of a use that may reasonably be expected to generate perceptible impacts on neighboring properties, a finding shall be made by the reviewing body that reasonable attempts, in consideration of generally acceptable industrial impacts and the character of the site and surrounding area, have been made to limit these impacts.
  
- (5) Nonconformities. In addition to the standards of Article 8 of this Ordinance, the following standards shall apply within this District. In the case of conflict with the standards of Article 8, the following standards shall prevail.

- (a) Any use or structure that legally existed on the date of adoption of this ordinance shall be permitted to continue, including necessary maintenance of any structure. In the instance of an event beyond the control of a landowner necessitating the replacement of a portion or the entirety of a nonconforming structure, such replacement shall be recognized for the purpose of this district to be permitted by right provided all requirements governing a non-conforming use or structure, including applicable Zoning Board of Appeals procedures, are deemed to be satisfied.
  - (b) Expansion of Legal Existing Use. An existing use lawfully established prior to the adoption of this Ordinance shall be permitted to expand, subject to review in accordance with any applicable Site Plan Review standards, and only to the extent of the property boundaries as established as of the effective date of this Ordinance. Any Special Use review criteria that would otherwise be required for the establishment of a new use may be waived in whole or in part by the Director of Planning.
  - (c) Change in Use of Legal Existing Structure. Where a use is proposed to be established within an existing lawfully built structure and where no physical site modifications to the exterior of the site will be made, the Site Plan Review standards of § 424 may be waived in whole or in part by the Director of Planning. However, if the proposed use is identified as a Special Use within the District, then the establishment of such use shall be subject to review in accordance with the Special Use Permit review standards of § 423, Special Use Permits.
- (6) Conflicting Review Requirements for Development Approval. Where a proposal includes more than one on-site use, with one or more use(s) permitted by-right and the other(s) requiring Special Use review, all uses permitted by-right may be administratively approved prior to the applicant obtaining Planning Commission approval for uses requiring a Special Use Permit. In such a case, the by-right portion of the site shall be designed in a manner that facilitates the independent function of the by-right use(s), including any required access drives, parking, and non-motorized facilities.

## SECTION 325 A: AGRICULTURAL

**PURPOSE** – The A (Agricultural) districts provide areas for agricultural operations and low intensity land uses. These districts are composed primarily of unsubdivided lands that are vacant or are in agricultural use with some dwellings and accessory uses. The A districts are suitable for large tracts of open space, agricultural areas, woodlands, and fields. They are designed to promote the protection of the existing natural environment and to preserve, enhance and stabilize the essential characteristics and economical value of these areas as agricultural lands. The A districts may be used to encourage development in and near the core areas of the township by limiting the development densities of parcels less suited for intensive development. The A districts may also be used to protect natural resources and environmentally sensitive areas by preserving these areas for low intensity land uses.

### **A. USES PERMITTED BY RIGHT:**

- (1) Adult Foster Care, Family Home
- (2) Cemetery
- (3) Dwelling, Single Family
- (4) Essential Service Facility, Minor – § 737.A
- (5) Farm Market
- (6) Farm Operation
- (7) Home Industry
- (8) Home Occupation
- (9) Keeping of Farm Animals
- (10) Park, Mini
- (11) Park, Neighborhood
- (12) Pet Grooming Establishment
- (13) Roadside Stand
- (14) Solar Energy System, Accessory – § 773.A

### **B. USES PERMITTED BY SPECIAL CONDITIONS:**

- (1) Child Care, Family Home (<7) – § 718
- (2) Child Care, Small Group Home (7-12) – § 719
- (3) Farm Employees House
- (4) Keeping of Horses, Personal – § 754.B
- (5) Medical Marihuana Residential Cultivation – § 758
- (6) Stormwater Containment, Non-Agricultural – § 774
- (7) Wind Energy Conversion System, Personal – § 781

### **C. USES PERMITTED BY SPECIAL USE PERMIT:**

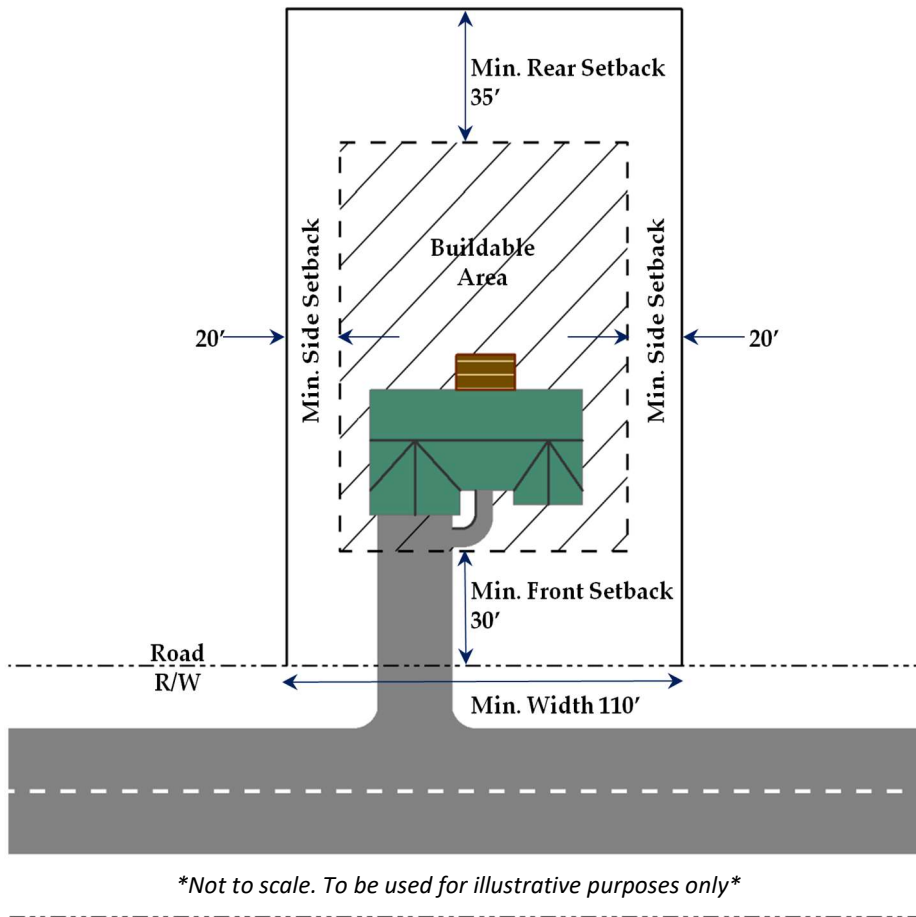
- (1) Adult Foster Care, Small Group Home – § 708
- (2) Adult Foster Care, Large Group Home – § 709
- (3) Airport or Airfield
- (4) Bed and Breakfast – § 713
- (5) Campground or Travel Trailer Park – § 716
- (6) Child Care Center – § 720
- (7) Essential Service Facility, Major – § 737.B
- (8) Game or Hunting Preserve, Commercial
- (9) Golf Course or Country Club – § 749
- (10) Greenhouse, Commercial
- (11) Incinerator
- (12) Institutional Uses and Structures – § 752
- (13) Kennel – § 755
- (14) Livestock Auction Yard
- (15) Lumber Processing and Sawmill – § 756
- (16) Outdoor Entertainment Center, Major – § 761
- (17) Recreational Field Complex – § 766
- (18) Sand or Gravel Pit, Quarry – § 771
- (19) Solar Energy System, Primary – § 773.B
- (20) Veterinary Hospital
- (21) Wind Energy Conversion System – § 780
- (22) Wireless Communication Facilities – § 792

**D. DIMENSIONAL STANDARDS (Per Dwelling Unit):**

<b>Minimum Lot Area (A):</b>	43,560 sq. ft.
<b>Minimum Lot Width:</b>	110 feet
<b>Maximum Building Height:</b>	
• In Stories:	2 ½ stories
• In Feet:	35 feet
<b>Minimum Yard Setbacks (B):</b>	
• Front:	30 feet
• Each Side:	20 feet
• Rear:	35 feet
<b>Maximum Lot Coverage:</b>	20 percent
<b>Minimum Bldg. Cross Section:</b>	24 feet

**Notes to Dimensional Standards:**

- (A) An agricultural operation which includes the raising and keeping of livestock for profit shall have a minimum lot area of ten (10) acres. Individual lot areas in recorded plats may be less than the required minimum provided the average lot size in the recorded plat is not less than the required minimum lot area of the A District and provided further that no individual lot size shall be less than seventy percent (70%) of the minimum required lot area. Provisions for reduced lot shall be stated on the recorded plat such that minimum average lot sizes shall be maintained in the event of any subsequent amendment(s) to the plat. Not more than ten percent (10%) of the total lots in a plat shall contain less than the required minimum lot area.
- (B) Setbacks shall be measured from the furthest protruding point of structure.



## SECTION 330 P-R PARK AND RECREATION DISTRICT

**PURPOSE AND FINDINGS.** The P-R (Park and Recreation) districts provide areas for passive and active recreational facilities which are owned or operated by a municipality or other governmental entity.

**A. USES PERMITTED BY RIGHT:**

- (1) Essential Service Facility, Minor – § 737.A
- (2) Park, Mini
- (3) Park, Neighborhood
- (4) Park, Community – Low Intensity
- (5) Solar Energy System, Accessory – § 773.A

**B. USES PERMITTED BY SPECIAL USE PERMIT:**

- (1) Campground or Travel Trailer Park – § 716
- (2) Essential Service Facility, Major – § 737.B
- (3) Park, Community – High Intensity
- (4) Solar Energy System, Primary – § 773.B

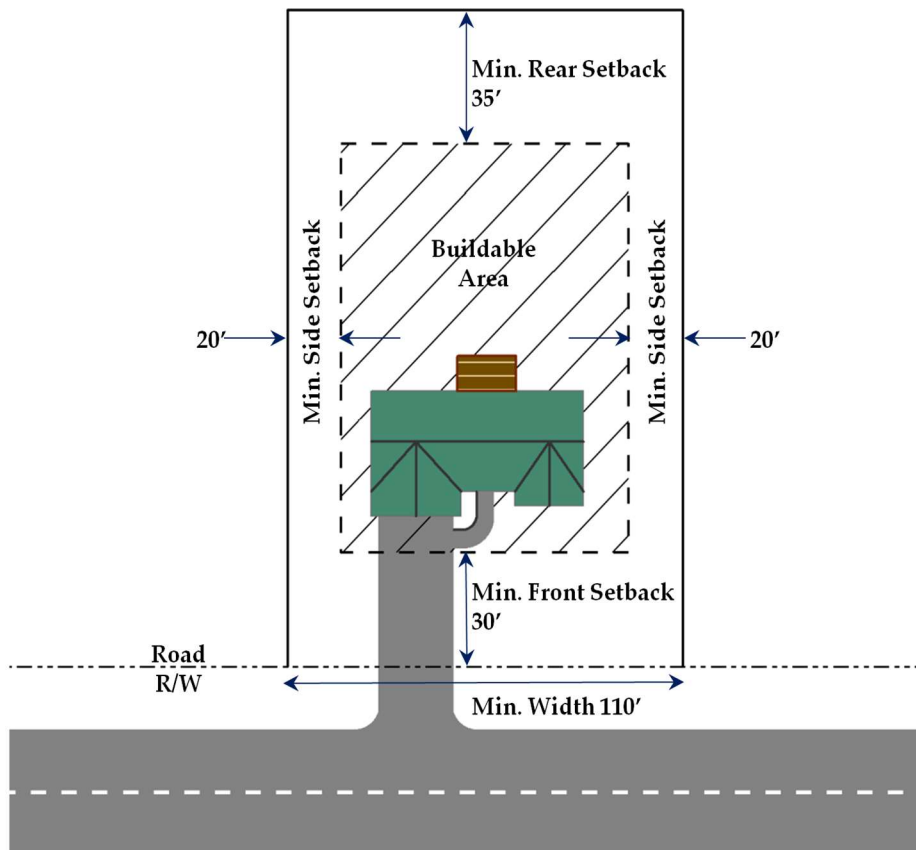
**C. COMPREHENSIVE PARK PLAN**

A Comprehensive Park Plan is not required but is encouraged to allow for efficient park development. The purpose of a Comprehensive Park Plan is to provide for the establishment of a development plan specific to the park or recreation area, including uses that are identified by Special Use Permit above and approved following the standards of §423, Special Use Permits, of this Ordinance.



**D. DIMENSIONAL STANDARDS (Per Dwelling Unit):**

- |                                     |                |   |
|-------------------------------------|----------------|---|
| <b>Minimum Lot Area:</b>            | 43,560 sq. ft. |   |
| <b>Minimum Lot Width:</b>           | 110 feet       | (A) Setbacks shall be measured from the furthest protruding point of structure. |
| <b>Maximum Building Height:</b>     |                |   |
| • In Stories:                       | 2 ½ stories    |   |
| • In Feet:                          | 35 feet        |   |
| <b>Minimum Yard Setbacks (A):</b>   |                |   |
| • Front:                            | 30 feet        |   |
| • Each Side:                        | 20 feet        |   |
| • Rear:                             | 35 feet        |   |
| <b>Maximum Lot Coverage:</b>        | 20 percent     |   |
| <b>Minimum Bldg. Cross Section:</b> | 24 feet        |   |



*\*Not to scale. To be used for illustrative purposes only\**

## SECTION 331 GTC GRAND TRAVERSE COMMONS DEVELOPMENT DISTRICT

### **PURPOSE:**

The Grand Traverse Commons Development District is a jointly planned jurisdictional area established pursuant to the Michigan Joint Municipal Planning Act 226 of 2003, as amended.

### **A. JURISDICTIONAL AUTHORITY:**

The jurisdictional authority for the Grand Traverse Commons Development District shall be the Grand Traverse Commons Planning Commission, established pursuant to the Joint Municipal Planning Act, MCL 125.131, et. seq., and by agreement between the City of Traverse City and the Charter Township of Garfield Township with an effective date of May 14, 2007 and approved by Chapter 1224 of the Codified Ordinances for the City of Traverse City and Section 1 of Ordinance No. 48 for the Charter Township of Garfield.

### **B. JURISDICTIONAL ZONING:**

The Zoning Ordinance for the Grand Traverse Commons Development District shall be the *Grand Traverse Commons Development Regulations*, as amended, an ordinance which implements the *Grand Traverse Commons Master Plan* of 2010 as adopted per P.A. 33 of 2008, as amended, being, the Michigan Planning Enabling Act (M.C.L. 124.3801 et seq.).

## **DIVISION 3: OVERLAY ZONES**

### **SECTION 341 Airport Overlay Zone**

Notwithstanding any provisions of this Ordinance, any project located in the Airport Overlay Zone shall comply with all standards of 14 CFR Part 77, "Standards for Determining Obstructions to Air Navigation", prepared by the Department of Transportation, Federal Aviation Administration (FAA). In the event of conflict between this Ordinance and any airport zoning regulations, the limitations and requirements most conducive to airport and air travel safety shall govern.

#### **A. Applicability**

- (1) Every parcel of land which lies in whole or in part within the Airport Overlay Zone as depicted on the Official Zoning Map is subject to the regulations of this Overlay Zone to the extent the parcel lies within this Overlay Zone.
- (2) The regulations of this Overlay Zone are in addition to any regulations in the underlying land use district; however, these regulations supersede all conflicting regulations of the underlying land use district to the extent of such conflict, but no further.

#### **B. Height Limitations:**

- (1) Notwithstanding any other provisions of this Ordinance, no area of land and/or water or appurtenances thereof shall be used as to constitute an airport hazard.
- (2) No structure or vegetation shall interfere with or penetrate the critical surface zone, conical or outer horizontal surfaces without prior review and approval by the FAA and when applicable the State of Michigan Aeronautical Department.
- (3) No structure within the inner horizontal surface area shall exceed the elevation of 774 U.S.G.S.
- (4) No structure shall exceed 35 feet in height without first receiving approval by the FAA and Township.

#### **C. Height Exemption:**

- (1) Any structure permitted in the district and having a height of 35 feet or less will be allowed to penetrate any surface area and will not be subject to § 341 (B)(2).

#### **D. Conflicting Federal or State Regulations:**

- (1) The regulations of the Airport Overlay Zone are not intended to conflict with existing or future approach protection regulations promulgated by the United States (Federal Aviation Regulation Part-77), the State of Michigan (P.C. 23 of 1950 as amended by P.C. 158 of 1976), or any agencies thereof.
- (2) Where there exists a conflict between any of the regulations or limitations prescribed in this Ordinance, and any other regulations applicable to the same area, whether the conflict is with respect to the height of structures or trees, the use of land, or any other matter, the more stringent limitation or regulation shall govern.

#### **E. Unlawful Land Uses:**

- (1) It shall be unlawful to establish a use on any parcel within 3.00 miles (inner horizontal surface area) of the Airport to any use which would:
  - (a) Create electrical interference with radio communication between the airport and aircraft or create interference with navigational aids employed by the airport or by aircraft.
  - (b) Make it difficult for aircraft pilots to distinguish between airport lights and other lights or result in glare in the eyes of aircraft pilots using the airport.
  - (c) Create air pollution in such amounts as to impair the visibility of aircraft pilots in the use of the airport.

- (d) Would endanger the landing, taking off or maneuvering of aircraft.
- (e) Abnormally attract birds.
- (f) Would otherwise create an airport hazard.

**F. Official Zoning Map:**

- (1) Mapping of the Airport Zoning Plans also takes into account the need to protect the approaches to the Airport from incompatible land uses that would limit or adversely affect the Airport's ability to serve the communities present and future air transportation needs.
- (2) The Official Zoning Map illustrates the boundary between the inner and outer Airport Overlay Zones as indicated by official adopted documents of the Cherry Capital Airport and based on FAA standards.

# ARTICLE 4 PROCEDURES

## *DIVISION 1: GENERAL*

### **PURPOSE**

The purpose of this article is to consolidate the procedures for filing and processing applications for development approval. The format is designed to allow users to quickly and efficiently ascertain the various steps involved in obtaining development approval—from the initiation and filing of an application, the administrative completeness review, and the review for compliance with substantive standards, through the public hearings.

- *Division 1: General*
- *Division 2: Conceptual Reviews*
- *Division 3: Quasi-Judicial and Legislative Approvals*
- *Division 4: Administrative Development Approvals*
- *Division 5: Zoning Procedures*
- *Division 6: Interpretations, Variances and Appeals*
- *Division 7: Enforcement, Violations, and Penalties*

### **SECTION 401 PROCEDURAL REQUIREMENTS**

No development or development activity is permitted unless all development approvals applicable to the proposed development are issued in accordance with this article. Development approvals are required for all development, unless specifically excepted, to ensure compliance with the various adopted codes, standards, and laws, and to ensure consistency with the master plan and policies of the township. This division describes procedural elements common to all applications. *Division 2: Conceptual Reviews* through *Division 7: Enforcement, Violations, and Penalties* describe the procedures and requirements for processing particular types of applications. No application will be accepted if the affected land(s) are in violation of this Ordinance or any other Township ordinance, including the Township Financial Responsibility Ordinance, unless such application includes remediation of such violation.

### **SECTION 402 CATEGORIES OF DEVELOPMENT APPROVALS**

There are three basic categories of development approvals pursuant to this article, defined in § 402.A. Legislative Development Approvals, § 402.B. Quasi-judicial Development Approval, and § 402.C. Administrative Development Approvals.

#### **A. Legislative Development Approvals**

Legislative development approvals involve a change in land-use policy. A public hearing is required but the procedural requirements of a quasi-judicial hearing do not apply. Legislative development approvals include any change in the master or specific plan, any change to the text of this ordinance, and any rezoning.

#### **B. Quasi-judicial Development Approvals**

A quasi-judicial development approval involves the application of a discretionary standard required by this article to an application. It requires a public hearing. Procedural due process requirements apply. Examples include planned development approvals, special use permits, variances, and administrative appeals.

**C. Administrative Development Approvals**

Administrative development approvals involve the application of the standards of this ordinance to an application by an administrative official. A public hearing is not required. Examples include some site plans, zoning certificates, land use permits and certificates of occupancy.

**SECTION 403 COMPLETENESS REVIEW**

This section applies to any application for a legislative or quasi-judicial development approval, unless otherwise provided in the regulations for the specific application. The following procedures shall be used to review any application for completeness unless a different procedure is established elsewhere in this article. *(For completeness review of an administrative development approval refer to § 416, Land Use Permits)*

**A. Preapplication Conference**

Before any application is filed, any applicant for a legislative or quasi-judicial development approval is encouraged to attend a preapplication meeting with the Planning Department. The purpose of the preapplication meeting is to discuss, in general, the procedures and substantive requirements for the application.

**B. Application Materials**

An application shall be accompanied by the information and fees required by Article 9, Specifications for Documents to Be Submitted, of this Ordinance. The Director of Planning or his/her designee shall review such information for sufficiency, and if determined adequate, accept the application for further consideration.

**C. Waivers**

The Director of Planning may waive the informational requirement(s) of this Section where the provision of such information is deemed unnecessary in deciding upon the application.

**D. Jurisdiction**

Unless the provisions pertaining to a particular application prescribe otherwise, all applications shall be reviewed by the Planning Department for completeness.

**E. Time Limits for Processing**

Whenever this article establishes a time period for processing an application, such time period does not commence until the Planning Department has reviewed such application for completeness in order to determine whether the application has been properly submitted and the applicant has corrected all deficiencies in the application. Reviews for completeness are solely for the purpose of determining whether preliminary information required for submission with the application is sufficient to allow further processing, and shall not constitute a decision as to whether an application complies with the provisions of this ordinance.

**F. Review by Planning Department**

- (1) Not later than ten (10) working days after the Planning Department has received an application, the Planning Department shall determine in writing whether the application is complete and shall immediately transmit the determination to the applicant.
- (2) The procedure of step (1) above shall be repeated until a complete application is received, provided that additional review fees may be required for a third or any subsequent completeness review.

- (3) If the Planning Department fails to act within the time period required for completeness review, the application is deemed complete for the purpose of introducing the project before the Planning Commission.
- (4) Nothing in this section precludes an applicant and the Planning Department from mutually agreeing to an extension of any time limit provided by this section.

**G. Appeal of Completeness Review**

A determination by the Planning Department that an application is not complete may be appealed in writing to the Planning Commission. Such appeal must specify the information provided in the application and relied upon by the applicant, and must include a description as to how such information satisfies the ordinance standard(s) referenced by the Planning Department in the completeness review.

**H. Further Information Requests**

After the Planning Department or the Planning Commission accepts a development application as substantially complete, the Planning Department or the Planning Commission may, in the course of processing the application, request the applicant to clarify, amplify, correct, or otherwise supplement the information required for the application, if such would be required to render a final determination on the merits. This additional information to be submitted may be required prior to scheduling a public hearing or otherwise acting on the application.

**SECTION 404 EXPIRATION OF APPLICATION**

During the course of any administrative, legislative, or quasi-judicial application review, if an applicant has failed to proceed meaningfully towards application completion or application decision for a period of one-hundred and twenty (120) consecutive calendar days, then the application shall be considered expired. Following expiration of an application, the applicant shall be provided with written notice of said expiration.

**SECTION 405 PERFORMANCE GUARANTEE**

**A. Generally**

To ensure compliance with this ordinance and any conditions imposed there under, the Township may require that a cash deposit, certified check, irrevocable bank letter of credit, surety bond, or other form of financial guarantee acceptable to the Township be deposited with the Township Clerk. The performance guarantee shall be deposited at the time of the issuance of the permit authorizing the activity or project. The Township shall not require the deposit of the performance guarantee until it is prepared to issue the permit.

**B. Amount**

The performance guarantee shall be sufficient to cover the estimated cost of improvements associated with a project, as submitted by a representative of the applicant and deemed reasonable by the approving authority.

**C. Improvements**

For the purposes of this section, improvements shall mean those features and actions associated with a project that are considered necessary to protect natural resources or the health, safety and welfare of the residents of the Township and those future users and/or inhabitants of the project or project area. Improvements shall include, but may not be limited to, streets and internal roadways inclusive of

curbs and drainage facilities, lighting, electrical systems, utilities, sidewalks, drainage facilities inclusive of applicable retention and detention ponds and/or systems, landscaping and buffers.

**D. Default; Drawing Upon Performance Guarantee**

- (1) If a Township official determines that a required improvement has not been made or that a condition of approval has been violated, and that the permit holder has not acted to correct the issue in a timely manner, the official may recommend to the Planning Commission that the performance guarantee be leveraged to bring about compliance. The Planning Commission shall decide whether to approve said recommendation for action to the Township Board. The Township Board shall then consider such action at its first meeting after the Planning Commission's review.
- (2) The performance guarantee may only be drawn upon resolution of the Township Board. Said resolution shall find that the applicant has failed to do one or more of the following:
  - (a) Complete an improvement or improvements pursuant to the requirements of the development approval, as applicable and any required conditions thereto; or
  - (b) Conduct meaningful progress for more than one (1) year toward the completion of one or more of the improvements.
- (3) Any resolution to draw upon the performance guarantee shall also direct the Zoning Administrator to take any action or procure any services which he or she deems necessary to bring about compliance.

**E. Rebate of Cash Deposit for Work Completed**

For Cash or Certified Check. The Township shall rebate to the applicant forty percent (40%) of the deposited funds when sixty percent (60%) of the required improvements are completed, and the remaining sixty percent (60%) of the deposited funds when one hundred percent (100%) of required improvements have been made. A written assessment of the amount of work completed shall be detailed in writing by the applicant and reviewed by Zoning Administrator, who shall certify in writing to the Township Treasurer that conditions for partial or full rebate of the cash deposit have been met. Such certification shall identify the condition, the amount of deposit specified for its guarantee, and any amount that has been used to enforce compliance with the remaining balance (if any). The Treasurer shall issue a check to the party named on the escrow account in the amount specified, following standard Township procedures for authorization of such disbursements.

**F. Land Division**

This Section shall not be applicable to improvements for which a cash deposit, certified check, irrevocable bank letter of credit, or surety bond has been deposited under the land division act.

**SECTION 406 NOTICE PROVISIONS**

**A. General**

The notice requirements for each process or type of application are prescribed in State statute. Notice shall be provided in accordance with such standards.

**B. Action to Be Consistent with Notice**

The reviewing body may take any action on the application that is consistent with the notice given, including approval of the application, conditional approval (if applicable) of the application, or denial of the application.



**C. Amendments Not Requiring Re-notification**

Proposed amendments which are considered Administrative (§ 423.G.(3)) or Minor (§ 423.G.(4)) shall not require re-notification.

**SECTION 407 PUBLIC HEARING**

**A. Applicability**

This section applies to any application or process requiring a public hearing pursuant to § 406.

**B. Planning Commission**

The Planning Commission shall hold regularly scheduled public hearings to receive and review public input on all applications and processes required by this article. The Planning Commission shall approve, approve with conditions, or deny applications on which it is required to render a final decision. The Planning Commission shall recommend that the Township Board approve, approve with conditions, or deny applications on which the Township Board is required to render a final decision.

**C. Township Board**

The Township Board shall hold regularly scheduled public hearings to act upon all items required by this article or state statute to be considered by the Township Board. The Township Board shall decide whether or not to approve, approve with conditions (if applicable), or deny such applications.

**SECTION 408 REVOCATION OF A DEVELOPMENT APPROVAL**

**A. Authority**

If substantial development and completion of the use and buildings does not proceed in conformance with a development approval, or physical or operational changes which violate the order, application, or data accompanying the application by the applicant, its successors, agents or assigns are identified, the Township shall have full authority to revoke the development approval.

**B. Grounds for Revocation**

The following are grounds for revocation of a development approval:

- (1) The intentional provision of materially misleading information by the applicant (the provision of information is considered "intentional" where the applicant was aware of the inaccuracies or could have discovered the inaccuracies with reasonable diligence); or
- (2) The failure to comply with any condition of a development approval.

**C. Termination, Suspension, or Amendment of Administrative Approval**

Upon discovery of an alleged violation, the Zoning Administrator may issue a stop work order.

The Zoning Administrator shall investigate alleged violations and determine whether or not to revoke, suspend, approve a revised site diagram or administrative site plan, or confirm that development is proceeding in conformance with the original administrative approval. No action of the Zoning Administrator to approve a revised site diagram, administrative site plan, or to impose additional conditions and standards, shall take effect without the written consent of the applicant.

**D. Termination, Suspension, or Amendment of Quasi-Judicial Approval**

Upon discovery of an alleged violation, the Director of Planning may issue a stop work order.

The Director of Planning shall investigate alleged violations and recommend in writing to the original approving authority whether or not to revoke, suspend, approve a revised legislative or quasi-judicial approval, or confirm that development is proceeding in conformance with the original approval. The process to consider termination, suspension, or amendment shall follow the original approval process, including public hearings, recommendations, or decisions of the Planning Commission or Township Board, as applicable.

Notice of a public hearing shall be provided pursuant to Section 406 and shall advise of the Director of Planning's recommendation as well as the date and location of the hearing before the Planning Commission or Township Board, as applicable.

Following completion of the hearing, the Planning Commission, or Township Board, shall make a decision to revoke the development approval, require the submittal of an amendment addressing the deficiencies, or confirm the original approval. Such decision shall be included in a development order which contains findings that address the basis for the decision. The development order shall state the nature of any violation and the harm such violation has caused. In the case of a suspension of the use, the development order shall state the length of time within which such violation can be cured. In the case of a termination, the development order shall state the reason such violation cannot be cured.

No action of the approving authority to approve a project amendment, or to impose additional conditions and standards, shall take effect without the written consent of the applicant.

**E. Appeals**

An aggrieved party may appeal the agency's decision to a court of competent jurisdiction. The appeal shall be presented within the period of time authorized by state statute.

## ***DIVISION 2: CONCEPTUAL REVIEWS***

### **PURPOSE**

The intent of the conceptual review process is to provide an opportunity for an informal dialogue between an applicant and the Planning Commission to discuss a potential development project.

### **SECTION 410 CONCEPTUAL REVIEWS BY PLANNING COMMISSION**

#### **A. Generally**

At the request of the applicant, the Planning Commission shall conduct a conceptual plan review to identify potential issues and concerns that should be addressed prior to formal review of any application requiring Planning Commission review and approval. Conceptual plan review shall not constitute an approval of the application, nor shall statements by the Planning Commission, Township Staff and/or Township consultants be construed as a position regarding the merits of the application.

#### **B. Design Considerations and Public Input Encouraged**

Prior to any conceptual review by the Planning Commission, the applicant is strongly encouraged to review and incorporate the design elements of the New Designs for Growth Development Guidebook. The applicant is also strongly encouraged to host an open meeting with property owners in the vicinity to introduce the project and identify potential issues and concerns of the vested stakeholders of the community. At the discretion of the applicant, the conceptual review before the Planning Commission may take place following public notice of the meeting. Opportunity for public comment shall be provided during the conceptual review process when public notice has been provided.

#### **C. Adequate Information and Materials**

The benefits of a conceptual review process are likely to be enhanced through the provision of sufficient information to enable the Planning Commission to reasonably understand a proposed project and the issues being presented for discussion. In order to appear before the Planning Commission for a conceptual review, an applicant shall therefore submit adequate information and materials that describe the potential development project and outline the concepts that are intended to be discussed by the Planning Commission. Sketch plans drawn to a reasonable scale are encouraged. In providing written and/or sketch plan information to the Planning Commission for the purposes of a conceptual review, submittal of the following information, when known, is encouraged:

- (1) The boundaries of the development site;
- (2) The total number of acres in the project;
- (3) The number of acres to be developed by each type of use;
- (4) The number of residential units;
- (5) The number and/or square feet and type of nonresidential uses;
- (6) A description of the proposal in terms of its relationship and intended connections to surrounding land uses, development projects, public lands, and existing and future street networks;
- (7) The general topography of the site and its relationship to adjoining land;
- (8) A general description of the natural resources and natural features of the site and, where known, an indication of which will be preserved and which will be removed;
- (9) The number of acres to be preserved as open or recreational space, and its general location;

- (10) Variations from ordinance regulations that are being sought and the reasons to support the requested changes; and
- (11) The public facilities intended to serve the planned unit development, such as sewage disposal, water supply, storm water systems, etc.

### *DIVISION 3: QUASI-JUDICIAL AND LEGISLATIVE APPROVALS*

#### **PURPOSE**

The purpose of this division is to establish legal authority and procedures for hearings which are subject to public discourse.

#### **SECTION 411 QUASI-JUDICIAL PUBLIC HEARINGS**

##### **A. Generally**

This section applies to any application for a planned development approval, special use permit, variance, appeal, or any other action pursuant to this ordinance that is considered quasi-judicial under state law. In making quasi-judicial decisions, decision makers must investigate facts or ascertain the existence of facts, hold hearings, weigh evidence, and draw conclusions from them, as a basis for their official action, and exercise discretion of a judicial nature. In the land use context, these quasi-judicial decisions involve the application of land-use policies to individual properties as opposed to the creation of policy.

These decisions involve two key elements:

- (1) The finding of facts regarding the specific proposal; and
- (2) The exercise of discretion in applying the standards of the ordinance.

##### **B. Conduct of Hearing**

Any person or persons may appear at a public hearing and submit evidence, either individually or as a representative. At any point, members of the body conducting the hearing may ask questions of the applicant, staff, public, or of any witness, through questions submitted to the chairperson of the body who will direct the questions to the appropriate person.

#### **SECTION 412 LEGISLATIVE HEARINGS**

##### **A. Generally**

*Purpose:* The purpose of a legislative hearing is to provide the public with an opportunity to be heard consistent with procedures provided by statute. Unlike quasi-judicial hearings, a legislative proceeding does not require written findings of fact. Similar to quasi-judicial hearings, legislative hearings are public hearings preceded by notice to interested parties. Public hearings are required for legislative review hearings, such as amendments to a master plan, or amendments to this ordinance (including zoning provisions of this ordinance and the zoning map).

##### **B. Conduct of Hearing**

Any person or persons may appear at a public hearing and submit evidence, either individually or as a representative. The Planning Commission or Township Board may establish a time limit for testimony and may limit testimony where it is repetitive. Each hearing or appellate body may adopt administrative regulations and procedures governing the practice of that agency.

##### **C. Record of Proceedings**

The body conducting the hearing shall record the minutes of the proceedings by any appropriate means as prescribed by rule and consistent with state law.

**D. Appeals**

Unless otherwise provided by the provisions of this ordinance or state statute, no appeals of a decision by the Planning Commission or Township Board shall be taken to the Zoning Board of Appeals.

## **DIVISION 4: ADMINISTRATIVE DEVELOPMENT APPROVALS**

### **PURPOSE**

This Division establishes procedures for administration of the Zoning Ordinance.

### **SECTION 414 DEVELOPMENT APPROVAL**

No land shall be disturbed and no building or structure shall be erected, added to, or structurally altered within the zoning jurisdiction until a development approval has been issued by the Zoning Administrator. All development approvals shall comply with the requirements of this ordinance. No grading approval, land use permit, building permit, or certificate of occupancy shall be issued for any building or structure or for any land disturbance where said construction, addition, alteration, or use violates any provision of this ordinance.

### **SECTION 415 GRADING AND LAND DISTURBANCE**

#### **A. Grading Development Approval**

Separate grading development approval is required for disturbances of land that require the removal of soil prior to the issuance of any development approval. Such approval may be issued by the Zoning Administrator in the form of a grading permit and shall document the conditions under which the permit is issued, including the duration of the permit; which may be required in the event that development approval is not obtained and construction does not proceed.

- (1) An engineered site plan shall be required, indicating the contour of the land, areas of disturbance, their location to surrounding uses, natural features, and any remediation activities.
- (2) The extension of a permit shall be denied or a permit may be revoked should violations of the permit exist, including stock piling of materials, lack of continuation towards an approval or completion, failure to receive required permits, or disturbances of land exceeding that permitted.
- (3) A performance guarantee per § 405 shall be provided to the Township prior to the issuance of the permit.

#### **B. Land Disturbance Activity**

Quarries, sand or gravel excavation, and substantial land alteration activities require a development approval pursuant to Article 7 of this Ordinance.

### **SECTION 416 LAND USE PERMITS**

*Purpose:* The purpose of this section is to prescribe procedures for development approvals that do not require quasi-judicial, legislative notice, or a public hearing. A public hearing is not required for development approvals set forth in this section for one or more of the following reasons:

- If required, public hearings have already been conducted relating to the development approval application and the development approval application procedure is designed to ensure that the proposed use complies with a previously approved subdivision plat, condominium, site plan, specific plan, special use permit, or conditional rezoning (e.g., certificate of occupancy);
- The proposed use is permitted as of right, or with special conditions in the applicable zoning district (e.g., development approval or certificate of occupancy); or
- The proposed use is subject to expedited review in order to avoid an unconstitutional prior restraint on speech (e.g., sexually oriented businesses or signs) or because of federal law (e.g., telecommunications development approval).

**A. Required**

A land use permit shall be required for any of the following:

- (1) To erect or move a structure having one hundred (100) or more square feet of floor area;
- (2) To expand an existing structure or increase the height of an existing structure;
- (3) To establish a new use or change in use for any premises or land in any zoning district;
- (4) To establish a temporary use as allowed by this ordinance;
- (5) To move, replace, erect, a sign or change a sign face or convert a sign face to an electronic sign in accordance with § 630 Signs;
- (6) To grade land in accordance with § 415 Grading and Land Disturbance; or
- (7) To move, replace, or erect exterior lighting fixtures to ensure compliance with § 517

**B. Initiation**

- (1) The applicant shall file a complete application for a land use permit with the Zoning Administrator. If site plan review is required in accordance with this ordinance, the approved site plan shall be submitted with the application. An application is available from the Zoning Department. If the proposed development or development activity is subject to site plan review, the application shall also include the information required by Article 5 of this Ordinance.
- (2) Applications shall require permits or approvals from applicable permitting agencies including the County Health Department, the County Road Commission, the County Soil Erosion Office, the Michigan Department of Natural Resources and/or Department of Environmental Quality or other regulatory agencies before an application is considered complete under § 416.C Completeness Review.

**C. Completeness Review**

- (1) The Zoning Administrator shall review an application for completeness within ten (10) working days.
- (2) The procedure of step (1) above shall be repeated until a complete application is received, provided that additional review fees may be required for a third or any subsequent completeness review.

**D. Decision**

The Zoning Administrator shall review the completed application for conformance with this ordinance. Within fifteen (15) working days of receipt of a complete application, the Zoning Administrator shall approve, approve with conditions, or deny the application for a land use permit. Applications that are denied shall have the reasons for denial, in writing, attached to the application. If the Zoning Administrator fails to render a decision relating to the application within this time period, the application shall be deemed approved. The applicant and the Zoning Administrator may agree in writing to extend the response time contained in this section.

**E. Approval Criteria**

- (1) The land use permit shall be issued by the Zoning Administrator only if the application complies with all applicable provisions of this ordinance and any approved special use permit, rezoning or conditional rezoning, site plan or other development approval.
- (2) Any financial guarantee required under § 405 Performance Guarantee shall be deposited with the Township prior to the issuance of the land use permit.



**F. Amendments**

Any revision to an application for a land use permit shall be processed in the same manner as the original application.

**G. Scope of Approval**

The land use permit shall be valid for a period of one (1) year unless the construction or use authorized by the land use permit has commenced.

**H. Recording Procedures**

The original signed application for a land use permit, diagrams, site plans, agency reviews and a copy of the approved land use permit shall be maintained in the files of the Zoning Department. The original signed copy of the approved land use permit shall be provided to the applicant.

**SECTION 417 CERTIFICATE OF OCCUPANCY**

All uses, including nonconforming uses, shall obtain a certificate of occupancy from the Garfield Township Building Department when a certificate is required by the State Construction Code. The Building Department shall enforce the applicable provisions of this ordinance and any permit or site plan authorized under this ordinance. All of the requirements and conditions contained in any development approvals applicable to the property, including zoning, site plan, and other Township approval, that have not been met at the time of the issuance of the development approval, shall be required to have been met before the issuance of any certificate of occupancy.

**SECTION 418 TEMPORARY CERTIFICATE OF OCCUPANCY**

**A. Generally**

If an applicant is prevented from completing, and having accepted, all requirements and conditions contained in a development approval applicable to a property, due to seasonal weather limitations or other cause beyond the applicant's reasonable control, a temporary certificate of occupancy may be issued by the Building Inspector. Such temporary certificate of occupancy may require a letter of credit or other financial guarantee, acceptable to the Township, in an amount sufficient to cover the costs of completion of all required improvements. The applicant shall also grant the Township, the Township's agent or contractor, a right of entry onto the property for the purpose of completing the improvements if the applicant has not completed, or caused to be completed, the improvements by such date as shall be established by the Building Inspector.

**B. Prohibited**

A temporary certificate of occupancy shall not be issued if completion of the required improvements is necessary to ensure the safety or health of persons, or the safety and security of property, as determined by the state construction code, local fire department, local sheriff's department, health department, Zoning Administrator, or other appropriate state, county or local agency.

## ***DIVISION 5: ZONING PROCEDURES***

### **PURPOSE**

This Division establishes legal authority and procedures for all zoning text or map amendments considerations.

### **SECTION 421 ZONING ORDINANCE AMENDMENTS**

This section provides uniform procedures for amendments to this ordinance or to the official zoning map.

#### **A. Applicability**

The provisions of this section apply to any application to:

- (1) Revise or add to the text of this ordinance; or
- (2) Reclassify a tract, parcel, or land area from one zoning district to another.

#### **B. Initiation**

- (1) All petitions, applications, recommendations, or proposals for changes in the zoning district classification of property or for changes in the text of this ordinance shall be filed with the Planning Department.
- (2) Text amendments may be proposed by any person.
- (3) A proposed rezoning may be initiated by:
  - (a) The Township Board or Planning Commission; or
  - (b) An application properly signed and filed by the owner or, with the owner's specific written consent, a contract purchaser or owner's agent of a property included within the boundaries of a proposed rezoning, unless otherwise provided by this ordinance.

#### **C. Completeness Review**

The Planning Department shall conduct a completeness review as set forth in § 403 Completeness Review.

#### **D. Decision**

Upon determination by the Director of Planning that the application is complete and required fees have been paid, the application shall be deemed complete and referred to the Planning Commission for its review and recommendation.

##### **(1) Planning Commission**

The Planning Commission shall hold at least one (1) public hearing on such application, and as a result thereof shall transmit its final report to the Township Board.

##### **(2) County Planning Commission**

The proposed zoning ordinance amendment shall be submitted to the County Planning Commission for review and recommendation. The amendment shall not be approved by the Township Board prior to receipt of the County Planning Commission recommendation, or the passing of thirty (30) days from the date the proposed ordinance amendment is received by the County, whichever is sooner.

**(3) Township Board**

After receipt of the final report of the Planning Commission and following a public hearing, the Township Board shall approve or deny the map or text amendment.

**(4) Type of Hearing**

The public hearings before the Planning Commission and Township Board shall be conducted as legislative hearings and comply with MCL 125.3103, as amended.

**E. Approval Criteria of Zoning Map Amendment**

In its review of an application for rezoning, the Township should consider, but is not necessarily limited to, the criteria as defined in § 421.E.1 Master Plan Consistency through § 421.E.8 Other Factors. No single factor is controlling; instead, each must be weighed in relation to the other standards.

The applicant shall have the burden of justifying the amendment, including identifying specific reasons warranting the amendment, and providing any supporting data and information.

**(1) Master Plan Consistency**

Rezoning should be consistent with the intent and purpose of the adopted master plan.

**(2) Adverse Impacts on Neighboring Lands**

The Township shall consider the nature and degree of an adverse impact upon neighboring lands. Lots shall not be rezoned in a way that is substantially inconsistent with the uses of the surrounding area, whether more or less restrictive. The Township finds and determines that vast acreages of single-use zoning produces uniformity with adverse consequences, such as traffic congestion, air pollution, and social separation. Accordingly, rezoning may promote mixed uses subject to a high degree of design control.

**(3) Suitability as Presently Zoned**

The Township shall consider the suitability or unsuitability of the tract for its use as presently zoned. This factor, like the others, must often be weighed in relation to the other standards, and instances can exist in which suitably zoned lands may be rezoned upon proof of a real public need, substantially changed conditions in the neighborhood, or to effectuate important goals, objectives, policies, and strategies of the master plan, specification, or this ordinance.

**(4) Changed Conditions**

The Township shall consider whether any conditions have changed, since the zoning ordinance was adopted, that might justify the amendment.

**(5) Health, Safety, and Welfare**

The ordinance amendment must bear a substantial relationship to the public health, safety, or general welfare, or must protect and preserve historical and cultural places and areas. The rezoning ordinance may be justified, however, if a substantial public need or purpose exists.

**(6) Public Policy**

Certain public policies in favor of the rezoning may be considered. Examples include a need for affordable housing, economic development, mixed-use development, or sustainable environmental features, which are consistent with neighborhood, area, or specific plans.

**(7) Size of Tract**

The Township shall consider the size, shape, and characteristics of the tract in relation to the affected neighboring lands. Ordinance amendments shall generally not rezone a single lot when there have been no intervening changes or other saving characteristics. Proof that a small tract is unsuitable for use as zoned, or that there have been substantial changes in the immediate area, may justify an ordinance amendment.

**(8) Other Factors**

The Township may consider any other factors relevant to a rezoning application under state law.

**F. Approval Criteria of Zoning Text Amendment**

In its review of an application for zoning text amendment, the Township should consider, but is not necessarily limited to, the criteria as defined in § 421.F.(1) Master Plan Consistency through § 421.F.(5) Other Factors. No single factor is controlling; instead, each must be weighed in relation to the other standards.

The applicant shall have the burden of justifying the amendment, including identifying specific reasons warranting the amendment, and providing any supporting data and information.

**(1) Master Plan Consistency**

A text amendment should be consistent with the intent and purpose of the adopted master plan.

**(2) Changed Conditions**

The Township shall consider whether any conditions have changed since the zoning ordinance was adopted that might justify the amendment.

**(3) Health, Safety, and Welfare**

The ordinance amendment must bear a substantial relationship to the public health, safety, or general welfare, or must protect and preserve historical and cultural places and areas.

**(4) Public Policy**

Certain public policies in favor of the rezoning may be considered. Examples include a need for affordable housing, economic development, mixed-use development, or sustainable environmental features, which are consistent with neighborhood, area, or specific plans.

**(5) Other Factors**

The Township may consider any other factors relevant to a zoning text amendment application under state law.

**G. Resubmittal of Application**

**(1) Applicability**

The provisions of this subsection do not apply to any application for a text amendment that is initiated by the Township.

**(2) Withdrawal After Planning Commission Hearing**

No application for amendment shall be resubmitted if, during the previous one (1) year, the application was received or filed and withdrawn after a public hearing occurred on the amendment before the Planning Commission. However, if the applicant substantiates that there is new, relevant, and substantial evidence, which could not have been secured at the time of the original hearing, the Planning Commission may hear and consider the application.

**(3) Denial of Amendment**

No application for an amendment shall be resubmitted within one (1) year after the Township has denied an application for rezoning of the same property.

**H. Scope of Approval**

An amendment to this ordinance does not authorize the development of land. An amendment authorizes the applicant to apply for development approval consistent with the terms of the zoning district applicable to the property and all other standards and requirements of this ordinance.

**I. Subsequent Zoning Amendments**

Any subsequent amendment request requires a new application and shall be processed as set forth in Section 421.A. Applicability through Section 421.G. Resubmittal of Applications.

## **SECTION 422 CONDITIONAL REZONING**

*Purpose:* The conditional rezoning procedure is designed to recognize 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, if certain conditions could be proposed by property owners as part of a request for a rezoning. This section provides a process consistent with the provisions of the Michigan Zoning Enabling Act by which an owner seeking a rezoning may voluntarily propose conditions regarding the use and/or development of land as part of the rezoning request.

### **A. Applicability**

This section applies to any application for reclassification of a tract, parcel, or land area to a conditional rezoning district. A conditional rezoning district may also be applied as an overlay zoning district to any base zoning district.

### **B. Initiation**

#### **(1) Generally**

An owner of land may voluntarily offer, in writing, conditions relating to the use and/or development of land for which a rezoning is requested. This offer may be made either at the time the application for rezoning is filed or may be made at a later time during the rezoning process.

#### **(2) Application**

A proceeding for approval of a conditional rezoning shall be initiated by filing an application with the Planning Department. The application shall be signed and filed by the owner or, with the owner's specific written consent, a contract purchaser or owner's agent of a property included within the boundaries of a proposed conditional rezoning.

#### **(3) Offer of Conditions**

- (a) The owner's offer of conditions may not purport to authorize uses or developments not permitted in the requested new zoning district.
- (b) The owner's offer of conditions shall bear a reasonable and rational relationship to the property for which rezoning is requested.
- (c) Any use or development, proposed as part of an offer of conditions that would require a special land use permit under the terms of this ordinance, may only be commenced if a special land use permit for such use or development is ultimately granted in accordance with the provisions of this ordinance.
- (d) Any use or development, proposed as part of an offer of conditions that would require a variance under the terms of this ordinance, may only be commenced if a variance for such development is ultimately granted by the Zoning Board of Appeals in accordance with the provisions of this ordinance.
- (e) Any use or development, proposed as part of an offer of conditions that would require site plan approval under the terms of this ordinance, may only be commenced if site plan approval for such use or development is ultimately granted in accordance with the provisions of this ordinance.
- (f) The offer of conditions may be amended during the process of rezoning consideration, provided that any amended or additional conditions are entered voluntarily by the owner.

An owner may withdraw all or part of its offer of conditions any time prior to final rezoning action of the Township Board provided that, if such withdrawal materially alters the intent and effect of the application, the Township Board shall refer the application back to the Planning Commission for a new public hearing with appropriate notice and a new recommendation.

**C. Completeness Review**

The Planning Department shall conduct a completeness review as set forth in § 403 Completeness Review.

**D. Decision**

The procedure for approving a conditional rezoning is the same as is required for a rezoning and as further provided in this section.

**(1) Statement of Conditions**

If the Township Board approves the conditional rezoning request and offer of conditions, the offered conditions shall be incorporated into a formal written Statement of Conditions. The Statement of Conditions shall be incorporated by attachment or otherwise as an inseparable part of the ordinance adopted by the Township Board to accomplish the requested rezoning.

The Statement of Conditions shall:

- (a) Be in a form recordable with the Grand Traverse County Register of Deeds or, in the alternative, be accompanied by a recordable Affidavit or Memorandum prepared and signed by the owner giving notice of the Statement of Conditions in a manner acceptable to the Township;
- (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 successor owners of the land;
- (d) Incorporate by attachment or reference any diagram, plans or other documents submitted or approved by the owner that are necessary to illustrate the implementation of the Statement of Conditions. If any such documents are incorporated by reference, the reference shall specify where the document may be examined;
- (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 Register of Deeds; and
- (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.

**(2) Recording**

- (1) The applicant shall record promptly the Statement of Conditions, Affidavit or Memorandum with the Grand Traverse County Register of Deeds in the chain of title for each parcel or portion thereof to which the conditional rezoning and Statement of Conditions pertains. A copy of each recorded document shall be filed with the Township within ninety (90) days of final approval by the Township or approval shall be considered expired. No land use

permits shall be issued until all required recorded documents have been provided to the Township.

- (2) The Township Board shall have authority to waive this requirement if it determines that, given the nature of the conditions and/or the time frame within which the conditions are to be satisfied, the recording of such a document would be of no material benefit to the Township or to any subsequent owner of the land.

#### **E. Approval Criteria**

Notwithstanding any provisions of this article to the contrary, a conditional zoning district may be permitted as provided in this section so long as the criteria of § 421.E, Approval Criteria of Zoning Map Amendment, are met.

#### **F. Resubmittal of Applications**

Any resubmittal of an application for conditional rezoning shall be governed by the standards of § 421.G. Resubmittal of Applications.

#### **G. Subsequent Zoning Amendments**

##### **(1) Generally**

Any subsequent conditional rezoning requires a new application and shall be processed as set forth in Section 422.A. Applicability through Section 422.G. Resubmittal of Applications.

##### **(2) Amendment of Statement of Conditions**

Any subsequent application to amend the Statement of Conditions shall be processed in the same manner as set forth in Section 422.A. Applicability through Section 422.G. Resubmittal of Applications.

##### **(3) Rezoning**

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, the Statement of Conditions imposed under the former zoning classification shall cease to be in effect. The Township shall record with the Register of Deeds a notice that the Statement of Conditions is no longer in effect.

#### **H. Scope of Approval**

##### **(1) Generally**

Upon the rezoning taking effect, the use of the land so rezoned shall conform thereafter to all of the requirements regulating use and development within the new zoning district as modified by any more restrictive provisions contained in the Statement of Conditions.

##### **(2) Compliance with Conditions**

- (a) No permit or approval shall be granted under this ordinance for any use or development that is contrary to an applicable Statement of Conditions.



(b) Any person who establishes a development or commences a use upon land that has been rezoned with conditions shall continuously operate and maintain the development or use in compliance with all of the conditions set forth in the Statement of Conditions. Any failure to comply with a condition contained within the Statement of Conditions shall constitute a violation of this ordinance and be punishable accordingly. Additionally, any such violation shall be deemed a nuisance per se and may result in initiation of a rezoning of the property to its base zoning classification and judicial and/or administrative action by the Township.

**(3) Variances Prohibited**

A variance shall not be granted to any condition imposed by the Township Board.

**(4) Time Period**

A conditional rezoning classification shall run with the land until such time that the zoning is changed.

**(5) Base Zoning District Regulations Apply**

A conditional zoning classification does not permit the applicant to use the subject property for uses other than those requested in the application for a conditional zoning classification. The granting of a conditional zoning classification does not waive the regulations of the underlying zoning district.

**I. Township Right to Rezone**

Nothing in the Statement of Conditions or in the provisions of this section shall be deemed to prohibit the Township from rezoning all or any portion of land that is subject to a Statement of Conditions to another zoning classification.

**J. Failure to Offer Conditions**

The Township shall not require an owner to offer conditions as a requirement for rezoning. The lack of an offer of conditions shall not affect an owner's rights under this ordinance.

## **SECTION 423 SPECIAL USE PERMITS**

*Purpose:* This section provides for certain uses that, because of unique characteristics or potential impacts on adjacent land uses, are not permitted in zoning districts as a matter of right but which may, under appropriate standards and factors set forth in this ordinance, be approved. These uses shall be permitted through the issuance of a special use permit within a site plan adopted by the Planning Commission after ensuring that the use can be appropriately accommodated on the specific property; that it will conform to the master plan; that it can be constructed and operated in a manner that is compatible with the surrounding land uses and overall character of the community; and that the public interest, health, safety, and general welfare will be promoted.

No inherent right exists to receive a special use permit. Such authorization must be approved under a set of circumstances and conditions. Each application and situation is unique. Every special use permit application or amendment shall, at a minimum, be required to comply with every requirement contained in each article of this ordinance. Mere compliance with the generally applicable requirements, however, may not be sufficient and additional measures and conditions may be necessary to mitigate the impact of the proposed development.

### **A. Applicability**

The provisions of this section apply to any application for approval of a special use permit. Special uses are those uses that are generally compatible with the land uses permitted by right in a zoning district, but that require individual review of their location, design, and configuration, and the imposition of conditions or mitigations in order to ensure the appropriateness of the use at a particular location within a given zoning district. Only those uses that are cited as special uses in a zoning district, as set forth in the zoning regulations, shall be authorized by the Planning Commission. A special use permit is not required for a use permitted by right in a given zoning district.

### **B. Initiation**

An owner of real property, or that owner's authorized representative, may apply for a special use permit for that property by filing an application with the Director of Planning. The application shall include the material required in Article 9, Specifications for Documents to Be Submitted, of this ordinance.

### **C. Completeness Review**

The Planning Department shall review the application for the special use permit for completeness in accordance with § 403 Completeness Review. When the Director of Planning has certified that the application is substantially complete, it shall be deemed received and shall be referred to the Planning Commission for its review and decision.

### **D. Approval**

The Planning Commission, after public notice in accordance with applicable state laws, shall hold at least one (1) public hearing on the application. The Planning Commission shall approve, approve with conditions or deny the application. If approved or approved with conditions, the decision of the Planning Commission shall be incorporated into a written report and decision order.

**(1) Type of Hearing**

The public hearing before the Planning Commission shall be conducted as a quasi-judicial hearing.

**(2) Conditions**

In approving any special use permit, the Planning Commission may impose such reasonable standards, conditions, or requirements, in addition to or that supersede any standard specified in this ordinance, as it may deem necessary to protect the public interest and welfare. Such additional standards may include, but need not be limited to:

- (a) Financing;
- (b) Availability of adequate public facilities or services;
- (c) Dedication of land;
- (d) Reservation of land;
- (e) Creation of special assessment districts;
- (f) Creation of restrictive covenants or easements;
- (g) Special setbacks;
- (h) Yard requirements;
- (i) Increased screening or landscaping requirements;
- (j) Area requirements;
- (k) Development phasing; or
- (l) Standards pertaining to traffic, circulation, noise, lighting, hours of operation, protection of environmentally sensitive areas, and similar characteristics.

**E. Approval Criteria**

A special use is permitted only if the applicant demonstrates that:

- (1) The proposed use will be consistent with the purpose and intent of the master plan and this ordinance, including all regulations of the applicable zoning district;
- (2) The proposed use will be designed, constructed, operated and maintained so as to be compatible, harmonious and appropriate with the existing or planned character and uses of the neighborhood, adjacent properties and the natural environment;
- (3) The proposed use will not be detrimental, hazardous or disturbing to existing or future adjacent uses or to the public welfare by reason of excessive traffic, noise, dust, gas, smoke, vibration, odor, glare, visual clutter, electrical or electromagnetic interference;
- (4) Potential adverse effects arising from the proposed use on the neighborhood and adjacent properties will be minimized through the provision of adequate parking, the placement of buildings, structures and entrances, as well as the provision and location of screening, fencing, landscaping, buffers or setbacks;
- (5) The proposed use will retain as many natural features of the property as practicable, particularly where the natural features assist in preserving the general character of the neighborhood;
- (6) Adequate public and private infrastructure and services such as streets, water and sewage facilities, drainage structures, police and fire protection, and schools, already exist or will be provided without excessive additional requirements at public cost;
- (7) The establishment, maintenance, or operation of the proposed use shall not be detrimental to or endanger the public health, safety, morals, comfort, or general welfare;
- (8) The public interest and welfare supporting the proposed use shall be sufficient to outweigh individual interests that are adversely affected by the establishment of the proposed use;
- (9) Adequate measures shall be taken to provide ingress and egress so designed as to minimize traffic hazards and to minimize traffic congestion on the public roads;

- (10) Adequate measures shall be taken to provide vehicular and pedestrian traffic within the site, and in relation to streets and sidewalks servicing the site in a safe and convenient manner; and
- (11) The proposed use shall not impede the orderly development and improvement of surrounding property for uses permitted within the zoning district.

**F. Subsequent Applications**

An application for a special use permit may be withdrawn at any time. If the application has been advertised in compliance with state law, an application requesting substantially the same use on all or part of the same described land shall not be reconsidered within one year of withdrawal. No application for a special use permit for any lot or parcel that requests the same use and same conditions shall be considered within one year of a final decision denying the application.

**G. Amendments**

**(1) General**

- (a) An amendment is a request for any enlargement, expansion, increase in intensity, relocation, or modification of any condition of a previously approved and currently valid special use permit. Amendments shall be classified as an Administrative Amendment, a Minor Amendment or a Major Amendment and shall be processed in accordance with § 423.G.(4) Administrative Amendments, § 423.G.(5) Minor Amendments, or § 423.G.(6) Major Amendments.
- (b) No amendment shall be processed if there is a violation of a previously approved and currently valid special use permit affecting the property, unless the requested amendment includes, as a primary or incidental purpose, the correction of such violation.

**(2) Initiation**

An owner of real property, or that owner's authorized representative, may apply for an amendment to previously approved and currently valid special use permit applying to that property by filing an application with the Planning Department.

**(3) Completeness Review**

The Planning Department shall review the application for the amendment for completeness in accordance with § 403 Completeness Review. When the Director of Planning has certified that the application is complete, it shall be deemed received.

**(4) Administrative Amendments**

- (a) The Director of Planning may authorize the following amendments to an approved site development plan:
  - (i) Shifts in on-site location and changes in size, shape, or configuration of less than 15 percent, or a 15 percent or less change in either impervious surface or floor area over what was originally approved.
  - (ii) An increase in total building height of less than five (5) feet, provided that maximum height regulations of the underlying zoning district are met.
  - (iii) Minor adjustment of the location of utilities and walkways, provided however that no sidewalks or paths required by the approval authority may be eliminated.
  - (iv) The substitution of landscape material provided the substituted materials are of a similar nature and quality and will comply with the standards of § 530, Landscape Materials of Article 5, Development Standards, of this ordinance.

- (v) Minor revisions to an internal street circulation pattern not increasing the number of lots or lowering the connectivity ratio.
  - (vi) Minor realignment of ingress and egress locations if required by the Grand Traverse County Road Commission or Michigan Department of Transportation.
  - (vii) A reduction in the number of proposed lots or the combination of units.
- (b) Prior to approving an amendment under Sections 423.G(4)(a) the Director shall determine that the amendment meets the following criteria:
- (i) No previous amendments have been granted that, together with the proposed amendment, would exceed the standards of this section;
  - (ii) There will be no detrimental impact on any adjacent property caused by significant change in the appearance or use of the property or any other contributing factor;
  - (iii) Nothing in the currently valid special use permit precludes or otherwise limits such expansion or enlargement;
  - (iv) The proposal conforms to this ordinance and is in keeping with the spirit and intent of the master plan; and
  - (v) The amendment proposes no increase in density.

**(5) Minor Amendments**

Following a determination that the review criteria of § 423.G(4)(b), above, are met, the Planning Commission may authorize the following amendments to an approved development plan without a public hearing:

- (a) Changes to the timing or phasing of the proposed development, provided that the use and overall geographic land area remains the same and that required public improvements are not delayed.
- (b) Increases in total building height of greater than five (5) feet provided that maximum height regulations are complied with.
- (c) Any other proposed amendment which is determined by the Planning Commission to have no detrimental impact on any adjacent property and is not considered or classified a Major Amendment under § 423(6) Major Amendments.

**(6) Major Amendments**

Any proposed amendment other than those provided for in § 423.G(4) Administrative Amendments and § 4.23.G(5) Minor Amendments are considered a major amendment and shall be approved in the same manner and under the same procedures as are applicable to the issuance of the original special use permit approval.

For the purposes of this section, “major amendments” include but are not necessarily limited to changes that:

- (a) Increase the number of dwelling units, floor area, height, impervious surface development, or any additional land-use disturbance other than as provided for in subsections (4) or (5), above;
- (b) Introduce different land uses than that requested in the application;
- (c) Request larger land area than indicated in the original application;
- (d) Request greater relief than that requested in the application;
- (e) Allow any decrease in buffer or transition areas, reduction in landscaping, reduction of required yards, or any change in the design characteristics or materials used in construction of the structures;

- (f) Reduce or eliminate conditions attached to a legislative or quasi-judicial development order;  
or
- (g) Reduce or eliminate pedestrian circulation.

**(7) Condominium Developments**

Amendments to a development site which has been subdivided according to the Condominium Act (Act 59 of 1978, as amended) shall also be subject to the amendment procedure of § 429 L, Condominium Amendments.

**H. Nonconforming Uses**

For an existing and currently valid special use that is no longer allowed as a special use in the zoning district in which it is located, the Planning Commission, upon receipt of an application, may review and approve an amendment to said development approval, provided that such amendment does not allow the use to be enlarged, expanded, increased in intensity, relocated, or continued beyond any limitation specified in the existing special use development approval or established in Article 8, Nonconformity, of this ordinance.

**I. Scope of Approval**

**(1) Generally**

Once a special use permit is granted, such use may be enlarged, extended, increased in intensity, or relocated only in accordance with this section unless the Planning Commission, in approving the initial special use permit, has specifically established alternative procedures for consideration of future expansion or enlargement. The provisions of Article 8, Nonconformity, of this ordinance, relative to expansion of nonconforming uses, do not supersede this requirement unless the use for which the development approval was initially granted is no longer a use permitted as of right or as a special use in the zoning district in which it is located.

**(2) Required Compliance**

Development activities subject to this section shall conform to the approved special use permit, any approved plans referenced by the special use permit, and any conditions or restrictions imposed thereon. Any deviation from the approved special use permit or plans, unless approved in advance and in writing by the Director of Planning in the case of an administrative site plan or the Planning Commission in the case of a minor or major amendment, is deemed a violation of this ordinance.

**J. Period of Effect**

The special use permit and any amendment to it shall remain in effect unless:

- (1) The special use permit order or amendment has not been recorded in accordance with § 423.L. Recording Procedures;
- (2) Substantial construction has not commenced within two (2) years of final approval by the township or an extension of time granted by the Planning Commission pursuant to § 423.K. Expiration of Approval; or
- (3) The special use permit order has been revoked by the Planning Commission pursuant to § 423.M.

#### **K. Expiration of Approval**

If substantial construction or, if the special use permit involves no construction, the permitted use has not commenced and proceeded meaningfully toward completion within two (2) years from the date the special use permit order was executed, the special use permit shall expire automatically. Prior to expiring, the applicant may submit a written request for an extension of the special use permit. If the Planning Commission finds that there is sufficient evidence that the applicant will in fact commence construction and proceed meaningfully toward completion, the special use permit may be extended for one (1) additional year provided the following conditions are met:

- (1) The applicant is able to demonstrate that construction or establishment of the use has been delayed by factors that are beyond their control and that construction or use will commence and continue meaningfully toward completion within the one (1) year extension;
- (2) There have been no significant changes in the character of the surrounding area that were not known or anticipated at the time of approval;
- (3) There have been no development approvals granted in the surrounding area that would be in conflict with the approved special use permit; and
- (4) There have been no changes to the master plan or this ordinance that would conflict with the approved special use permit.

#### **L. Recording Procedures**

- (1) The applicant shall record promptly the special use permit order with the Grand Traverse County Register of Deeds in the chain of title for each parcel or portion thereof to which the order pertains. Alternatively, a memorandum of special use permit may be prepared by the township in such recordable form as deemed appropriate and shall then be recorded promptly by the applicant with the Grand Traverse County Register of Deeds. A copy of each recorded document shall be filed with the Director of Planning within thirty (30) days of final approval by the township or approval shall be considered expired. No land use permits shall be issued until a copy of all required recorded documents has been provided to the township.
- (2) The Director of Planning shall have authority to waive this requirement if it is determined that, given the nature of the special use permit and the conditions imposed, the recording of such a document would be of no material benefit to the township or to any subsequent owner of the land.

#### **M. Revocation**

Pursuant to § 408 the Township shall have the authority to revoke any special use permit after it has been proved that the holder of the permit has failed to comply with any of the applicable requirements in this Article of the zoning ordinance. After revocation notice has been given, the use for which the permit was granted must cease within sixty (60) days.

## SECTION 424 SITE PLANS

*Purpose:* Site diagrams and plans are intended to ensure the orderly integration of development with adjacent sites and uses, minimize impacts on adjacent parcels, ensure the continued safety and function of the street system and minimize impacts on sensitive environmental features. In this context, site diagrams and plans will be used to determine if the proposed development is in compliance with current statutes, ordinances, regulations, the Township's master plan, this ordinance, specific or neighborhood plans, and other applicable requirements.

### A. Applicability

The submission of a site diagram, an administrative site plan or a site development plan is mandatory for any use requiring a land use permit, a special use permit, a grading and land disturbance permit, any other permit required by this ordinance, or for any amendment thereto, unless specifically exempted from this requirement by the standards of this ordinance.

#### (1) Site Diagram

A site diagram is required for:

- (a) Any use not requiring an administrative site plan or a site plan by this Section;
- (b) A grading and land disturbance as regulated by this Ordinance;
- (c) Single or two-family residential dwelling units and accessory structures permitted by right by this Ordinance.

#### (2) Administrative Site Plan

An administrative site plan is required for:

- (a) Three or more residential dwelling units permitted by right by this Ordinance;
- (b) Any non-residential use or building permitted by right by this Ordinance.

#### (3) Site Development Plan

A site development plan is required for:

- (a) Any land use or building requiring a special use permit under § 423.
- (b) Any development submitted under § 425 through § 430, inclusive.
- (c) Any land use that will generate (upon build out) 500 or more vehicle trips per day, as determined by reference to the latest edition of the Trip Generation Manual promulgated by the Institute of Transportation Engineers.

### B. Approval Authority

#### (1) Site Diagram

- (a) The Zoning Administrator shall be the approval authority for a site diagram.
- (b) At the discretion of the Zoning Administrator, any site diagram may be referred to the Director of Planning for review and determination, in which case the Director of Planning shall be the approval authority for that site diagram.

#### (2) Administrative Site Plan

- (a) The Director of Planning, or his shall be the approval authority for an administrative site plan.
- (b) At the discretion of the Director of Planning, any administrative site plan may be referred to the Planning Commission for review and determination, in which case the Planning Commission shall be the approval authority for that administrative site plan.



**(3) Site Development Plan**

The Planning Commission shall be the approval authority for a site development plan required under § 423, § 427, or § 428 (Special Use Permits, Planned Unit Residential Developments, or Open Space Preservation Option). The Planning Commission shall be the recommending body and the Township Board shall be the approval authority for a site development plan required under § 426 or § 429 (Planned Unit Developments or Condominium Developments).

**C. Data Requirements**

- (1) Applications for approval under this subsection shall include the information and data specified in Article 9, Specifications for Documents to Be Submitted.
- (2) In addition to the requirements set forth in Article 9 the approval authority may require additional information if it is deemed to be necessary.

**D. Waivers**

The Director of Planning may waive a particular element of information or data otherwise required for a site diagram, administrative site plan, or site development plan upon a finding that the information or data is not necessary to determine compliance with this ordinance or that such information or data would not bear on the decision of the approval authority.

**E. Review Procedures**

**(1) Submittal**

An application for approval shall be made on the form provided by the Township. An application for site diagram approval shall be submitted to the Zoning Administrator. An application for administrative site plan or site development plan approval shall be submitted to the Director of Planning.

**(2) Completeness Review**

Completeness review shall be governed by this section and § 403, Completeness Review, to the extent consistent with this section. The Zoning Administrator shall determine within ten (10) working days after submittal indicating whether or not a site diagram is complete. The Director of Planning shall determine within ten (10) working days after submittal indicating whether or not an administrative site plan or a site development plan is complete. The applicant shall file a written response to any staff comments or resolve outstanding issues prior to final approval of a site diagram or an administrative site plan or the scheduling of a site development plan before the Planning Commission. This response shall occur within thirty (30) days of the mailing date of staff comments, unless a time extension is requested and granted in writing, or the application shall be considered to have been withdrawn by the applicant and shall be closed without further action by the Township. The maximum limit on an extension is six months from the original staff comment date. The appellate agency for purposes of completeness review (see § 403 Completeness Review) is the Planning Commission.

**(3) Consultant Review**

- (a) In the course of reviewing a site diagram, administrative site plan, or a site development plan application, the Township may determine that outside consulting services such as, but not limited to, legal, planning, engineering, traffic and environmental services, are required. Such determination shall be made by the Zoning Administrator, Director of Planning or the Planning Commission at the earliest possible time based upon available

information. The revelation of information during the review process shall not preclude the approval authority from halting proceedings at any time and requiring that escrow funds, in an amount determined by the approval authority to be necessary to complete a full and proper review of an application, be deposited with the Township.

- (b) The Township reserves the right to consult with such consultants of its choice. Funds to cover such costs shall be the responsibility of the applicant, in accordance with the escrow policies of the Township.
- (c) The applicant shall deposit such escrow funds, as determined by the Township to be necessary, with the Township prior to the application being considered complete under § 424.E.(3), Completeness Review.

#### **(4) Decision**

The approval authority shall approve, deny or approve with conditions the site diagram, administrative site plan or site development plan, as applicable. The approval authority may impose conditions in conformance with § 424.G., Conditional Approvals. A site diagram, administrative site plan or site development plan shall be deemed approved only upon the signature of the appropriate person on the diagram or plan, as set forth in § 424.N, Site Plan Record and Signature.

### **F. Review Standards**

#### **(1) Standards for Approval – Site Plan or Site Development**

An administrative site plan or site development plan shall conform to all provisions of this ordinance and to the following site development standards which shall be reflected on the plan:

- (a) **Required Information.** All required information shall be provided.
- (b) **Outside Agencies.** All applicable standards of outside agencies shall be met and all required permits and approvals from outside agencies shall be secured, or be made a condition of approval.
- (c) **Essential Facilities and Services.** Adequate essential facilities and services, including highways, streets, police, fire protection, drainage structures, refuse disposal, water and sewage facilities, and schools, shall be available.
- (d) **Natural Features.** Sensitive natural features, or existing natural features that provide a buffer between adjoining properties, or assist in preserving the general appearance of the neighborhood, or help control soil erosion or stormwater, shall be preserved to the greatest extent possible.
- (e) **Site Design.** All buildings and structures shall be designed, situated, constructed, operated and maintained so as to be harmonious, compatible, and appropriate in appearance, with the existing or intended character of the general vicinity. Site design shall minimize adverse effects upon owners and occupants of adjacent properties and the neighborhood.
- (f) **Orientation.** Primary buildings or structures shall be oriented so that their main entrance faces the street upon which the lot fronts. If the development is on a corner lot, the main entrance may be oriented to either street or to the corner.
- (g) **Vehicle and Pedestrian Systems.** The development, where possible, shall provide vehicular and pedestrian circulation systems which reflect and extend the pattern of streets, pedestrian and bicycle ways in the area. A proper relationship between existing and proposed roadways and parking areas shall be demonstrated, and the safety and convenience of pedestrian and vehicular traffic shall be assured. Travelways which

connect and serve adjacent development shall be designed appropriately to carry the projected traffic.

- (h) **Shared Drives.** Where the opportunity exists, developments shall use shared drives. Unnecessary curb cuts shall not be permitted.
- (i) **Impervious Surfaces.** The amount of impervious surface has been limited on the site to the extent practical.
- (j) **Master Plan.** The proposal is not in conflict with the land use policies, goals and objectives of the Township Master Plan.

**(2) Required Approval**

No site diagram, administrative site plan or site development plan shall be approved unless it conforms to all applicable requirements of each article of this Ordinance.

**G. Conditional Approvals**

The approval authority may attach conditions to the approval of a site diagram, administrative site plan or site development plan when such conditions:

- (1) Would ensure the provision of public services and facilities that are capable of accommodating the increased service and service facility capacities caused by the proposed land use or activity;
- (2) Would protect the built and natural environment;
- (3) Would ensure compatibility with adjacent uses of land; and
- (4) Would ensure compliance with the standards and regulations of this ordinance.

**H. Performance Guarantees**

A performance guarantee may be required by the approval authority in conformance with § 405, Performance Guarantee.

**I. Amendments**

**(1) Site Diagram and Administrative Site Plan Amendments**

Amendments to a site diagram or an administrative site plan shall be approved in the same manner as the initial submittal.

**(2) Site Development Plan (Quasi-Judicial Approval) Amendments**

Requests to amend a site development plan which was required as part of a Quasi-Judicial development approval shall be subject to the applicable Quasi-Judicial amendment procedure. Refer to § 423 and § 425 - § 430, inclusive.

**J. Subsequent Applications**

If an administrative site plan or site development plan is denied, a new plan proposing the same development for the same property shall not be filed within twelve (12) months after a final decision.

**K. Expiration of Approval**

Site diagram, administrative site plan or site development plan approval shall remain valid unless:

- (1) Substantial construction has not commenced and moved meaningfully toward completion within twelve (12) months from the date of approval;
- (2) An extension of time has not been granted in writing by the approval authority on the basis that the owner or applicant maintains a good faith intention to proceed with construction;
- (3) Approval has not been revoked in accordance with § 424.M.

**L. Required Compliance**

Development activities subject to this section shall conform to the approved site diagram, administrative site plan or site development plan and any conditions or restrictions imposed thereon. Any deviation from the approved plan, unless approved in advance and in writing by the Zoning Administrator in the case of a site diagram or the Director of Planning in the case of an administrative site plan or site development plan, is deemed a violation of this ordinance.

**M. Revocation of Site Plan Approval**

Pursuant to § 408 the Township shall have the authority to revoke any site plan approval after it has been proved that the holder of the permit has failed to comply with any of the applicable requirements in this Article of the Zoning Ordinance. After revocation notice has been given, the use for which the permit was granted must cease within sixty (60) days.

**N. Site Plan Record and Signature**

The approved site diagram, administrative site plan or site development plan shall be maintained in the permanent files of the Township. The signature of the Zoning Administrator shall be affixed to every approved site diagram. The signature of the Director of Planning shall be affixed to every approved administrative site plan and site development plan.

## SECTION 425 PLANNED DEVELOPMENTS

*Purpose:* This section provides for planned developments to further the health, safety, and general welfare of Township residents by permitting the Township flexibility in the regulation of land development and encouraging innovation and variety in land use and design of projects.

Planned developments are not permitted by right, but may under appropriate standards and factors set forth in this section, be approved by the Township. Planned development approvals shall be incorporated into a written Report and Decision Order and shall be recorded in the chain of title of each parcel to which the planned development order applies.

No inherent right exists to receive a planned development approval. Such authorization must be approved under a specific set of circumstances and conditions. Each application and situation is unique. Every planned development or amendment thereto shall at a minimum be required to comply with the requirements contained in this section and follow the spirit and intent of the Charter Township of Garfield Master Plan. Mere compliance with the generally applicable requirements, however, may not be sufficient, and additional measures and conditions may be necessary to mitigate the impact of the proposed development.

### **A. Applicability**

#### **(1) Generally**

The provisions of this section apply to any application for planned development, including any application for planned unit development and planned unit residential development.

#### **(2) Planned Unit Developments**

In addition to the provisions of this section, the provisions of § 426 Planned Unit Development shall also apply to any application for planned unit development.

#### **(3) Planned Unit Residential Developments**

In addition to the provisions of this section, the provisions of § 427 Planned Unit Residential Development shall also apply to any application for planned unit residential development.

### **B. Pre-application Submission and Review**

Prior to submission of a complete application, at the discretion of the Planning Director or as requested by an applicant, any proposed planned development may be presented to the Planning Commission for informal review and comment. Sufficient information to provide an overview of the planned development including proposed land uses, project density, general layout and design, proposed circulation patterns and existing site conditions shall be presented at this time. Detailed plan preparation is neither required nor encouraged at this stage in the approval process.

**C. Initiation**

An owner of real property, or that owner's authorized representative, may apply for approval of a planned development by filing an application with the Director of Planning. **The application shall include the materials required in § 957, Specifications for Documents to be Submitted**, of this Ordinance.

**D. Completeness Review**

The Director of Planning shall conduct a completeness review as set forth in § 403, Completeness Review. When the Director of Planning has certified that the application is complete, it shall be deemed received and shall be referred to the Planning Commission for its review and preliminary decision.

**E. Procedure**

**(1) Planned Unit Development (PUD)**

Planned unit development applications shall be reviewed in a two step process in accordance with § 426.B. Preliminary Review and Decision and with § 426.C Final Review and Decision.

**(2) Planned Unit Residential Development (PURD)**

Planned unit residential development applications shall be reviewed in a one step process in accordance with § 427.B. Review and Decision and with §427.C Final Review and Decision.

**(3) Cross-Jurisdictional Applications**

Consideration of, deliberation over and decision-making with respect to a cross-jurisdictional planned development shall, to the extent practical or feasible, be conducted jointly with the appropriate Planning and/or legislative bodies of the adjoining municipality. The substantive standards and conditions of this ordinance shall apply. To the extent the adjoining jurisdiction has substantive standards or conditions which differ from the conditions or standards contained in this ordinance, such adjoining jurisdiction's substantive standards and conditions may be adopted and incorporated by reference as part of this ordinance pursuant to authority at MCL 125.3503(10), as amended.

**F. Conditions**

In approving any planned development, the Township may:

- (1) Impose such reasonable standards, conditions, or requirements, in addition to or that supersede any standard specified in this ordinance, as it may deem necessary to protect the public interest and welfare. Such additional standards may include, but need not be limited to:
  - (a) Availability of public facilities or services;
  - (b) Dedication of land;
  - (c) Low impact design requirements(rain gardens, bio swales, pavers, permeable pavement etc);
  - (d) Creation of special assessment districts;
  - (e) Creation of restrictive covenants or easements;
  - (f) Increased or decreased setbacks;

- (g) Yard requirements;
  - (h) Increased screening, landscaping requirements or open space;
  - (i) Area requirements;
  - (j) Development phasing;
  - (k) Protection of natural resources and environmentally sensitive areas;
  - (l) Standards pertaining to traffic, circulation, noise, lighting, hours of operation, and similar characteristics; and
  - (m) Construction of non-motorized facilities for public use.
- (2) Require that a performance guarantee, acceptable in form, content, and amount to the Township, be posted by the applicant to ensure continued compliance with all conditions and requirements as may be specified;
  - (3) Require that a development agreement be entered into by the applicant; and
  - (4) Require that the standards of other governmental agencies be met, provided, however, that if at any time a requirement of another agency conflicts with a requirement or condition of the Township, the matter shall be brought before the Planning Commission for reconsideration.

**G. Phased Planned Developments**

Where a planned development is proposed for development in phases, a phasing plan that provides for the timely and integrated development of all proposed uses, infrastructure and other improvements shall be submitted. Before approving the planned development phasing plan, the Township shall determine that:

- (1) Each phase shall contain all necessary infrastructure, improvements and uses necessary for each phase to be self-contained;
- (2) Upon completion, each phase shall contain the necessary components to ensure protection of natural resources and the health, safety, and welfare of the users of the project and the residents of the surrounding area;
- (3) Each phase shall be designed to provide, at a minimum, a proportional share of open space, infrastructure improvements, public benefits, and mix of proposed land uses as determined necessary by the Township to recognize the public benefits upon which approval of the planned development is based. Where open space is required, the Planning Commission may permit such open space to be placed wholly within a particular phase of the development to encourage the dedication of useable tracts of open space. In the event that the proposed open space will be within a later phase, a performance guarantee may be required to ensure its future construction and accessibility;
- (4) Provisions for each phase, satisfactory to the Township, have been made to provide for the financing of any improvements shown on the planned development for open spaces and common areas which are to be provided by the applicant; and
- (5) The cost of installing all streets and necessary utilities has been assured for each phase by a means satisfactory to the Township.

The Township shall make appropriate findings of fact to substantiate the need for any required changes to the applicant's proposed phasing plan.

**H. Recording Procedures**

- (1) Upon final approval the Township shall issue a planned development Report and Decision Order. The applicant shall record promptly the Order with the Grand Traverse County Register

of Deeds in the chain of title for each parcel or portion thereof to which the order pertains. Alternatively, a memorandum of planned development may be prepared by the Township in such recordable form as deemed appropriate and shall then be recorded promptly by the applicant with the Grand Traverse County Register of Deeds. A copy of each recorded document shall be filed with the Township within thirty (30) days of final approval by the Township or approval shall be considered to have expired. No land use permits shall be issued until a copy of all required recorded documents has been provided to the Township.

- (2) The Director of Planning shall have authority to waive this requirement if it is determined that, given the nature of the planned development and the conditions imposed, the recording of such a document would be of no material benefit to the Township or to any subsequent owner of the land.

## **I. Resubmittal of Application**

### **(1) Applicability**

The provisions of this subsection apply to the resubmission of any application for a planned development that has previously been submitted by an applicant.

### **(2) Withdrawal After Planning Commission Hearing**

No planned development application shall be resubmitted if, during the previous six (6) months, the application was received or filed and withdrawn after a public hearing occurred on the planned development before the Planning Commission. However, if the applicant substantiates and certifies with a sworn affidavit that the evidence is new, relevant, and substantial, and could not have been secured at the time set for the original hearing, the Planning Commission may hear and consider the resubmitted application.

### **(3) Denial of Planned Development**

No application for planned development shall be resubmitted within one (1) year after the Township has denied an application for planned development of the same property.

## **J. Amendments**

### **(1) General**

- (a) An amendment is a request for any enlargement, expansion, increase in intensity, relocation, or modification of any condition of a previously approved and currently valid planned development. Amendments shall be classified as an Administrative Amendment, a Minor Amendment or a Major Amendment and shall be processed in accordance with § 423.G.4 Administrative Amendments, § 423.G.5 Minor Amendments, or § 423.G.6 Major Amendments.
- (b) No amendment shall be processed if there is a violation of a previously approved and currently valid planned development affecting the property unless the requested amendment includes, as a primary or incidental purpose, the correction of such violation.
- (c) An amendment for land within a Planned Development which has been subdivided pursuant to the Condominium Act (Act 59 of 1978, as amended) shall also be subject to review in accordance with § 429, Condominium Developments. In the case of conflict between the sections, the standards of § 429 shall prevail.



**(2) Initiation**

An application to amend an approved planned development shall be filed with the Planning Department. The application shall be signed by the owner(s), or the owner's agent, of any real property which would be directly affected by the amendment. The application shall also include:

- (a) Written consent to the application by the owner(s) of at least sixty (60) percent of approved development sites within the planned development; OR
- (b) Written consent to the application by the owner(s) of at least sixty (60) percent of land area within the planned development.

**(3) Completeness Review**

The Planning Department shall review the application for the amendment for completeness in accordance with § 403 Completeness Review. When the Director of Planning has certified that the application is complete, it shall be deemed received.

**K. Division of Land Within Planned Development**

The division of land within an approved Planned Development, whether by Land Division Act or Condominium Act, shall not occur prior to Planning Department authorization. The Planning Department and Township Attorney shall review draft condominium or division documents for consistency with the approved development plan, conditions of approval, and with all other applicable sections of this Ordinance.

**L. Scope of Approval**

**(1) Planned Development Effect**

After final approval of a planned development, the land to which it pertains shall only be developed and used in accordance with the following:

- (a) As authorized and described in the order approving the planned development, any approved plans referenced by the planned development approval, and any conditions or restrictions imposed thereon; or
- (b) As authorized by the provisions of this ordinance that would apply if the planned development order had not been issued and upon rescindment of the planned development order pursuant to § 425.O Rescindment of Planned Development Approval.

**(2) Period of Effect**

The planned development order and any amendment to it shall remain in effect unless:

- (a) The planned development order or amendment has not been recorded properly pursuant to §425.H Recording Procedures;
- (b) The planned development order or amendment has expired pursuant to § 425.L.(3) Expiration of Approval;
- (c) The planned development order has been rescinded pursuant to § 425.O Rescindment of Planned Development Approval; or
- (d) The planned development order has been revoked by the Township pursuant to §425.M Revocation of Planned Development Approval.

### **(3) Expiration of Approval**

- (a) Preliminary approval by the Township Board shall act as the date of approval for a preliminary PUD plan submitted under § 426.B Preliminary Review and Decision. The applicant shall submit a complete application in accordance with §426.C., Final Review and Decision, or within 12 months of the preliminary approval or the preliminary plan approval shall be considered expired.
- (b) Preliminary approval by the Planning Commission shall act as the date of approval for a preliminary PURD plan submitted under § 427.B Preliminary Review and Decision. The applicant shall submit a complete application in accordance with §427.C., Final Review and Decision, or within 12 months of the preliminary approval or the preliminary plan approval shall be considered expired.
- (c) Execution of the planned development Report and Decision Order shall act as the date of final approval. If substantial construction or, if the order involves no construction, the permitted use has not commenced and proceeded meaningfully toward completion within two (2) years from the date of final approval, the planned development order shall expire automatically.
- (d) Prior to expiring, extensions of the planned development order may be requested by the applicant. If the Planning Commission finds that there is sufficient evidence that the applicant will in fact commence construction and proceed meaningfully toward completion by the end of the third year, the planned development order may be extended for one (1) additional year where all of the following conditions are met:
  - (i) The applicant is able to demonstrate that construction has been delayed by factors that are beyond its control and that construction will commence and continue meaningfully toward completion within the one (1) year extension;
  - (ii) There have been no significant changes in the character of the surrounding area that were not known or anticipated at the time of approval;
  - (iii) There have been no development approvals granted in the surrounding area that would be in conflict with the approved planned development order; and
  - (iv) There have been no changes to the master plan or this Ordinance that would conflict with the approved planned development order.

### **M. Revocation of Planned Development Approval**

If substantial development and completion of the use and buildings do not proceed in conformance with the approved planned development order, or physical or operational changes which violate the order, application, or data accompanying the application by the applicant, its successors, agents or assigns are identified, the Township shall have full authority to revoke approval of the planned development. Upon discovery of a violation, the Director of Planning may issue a notice to appear before a public hearing of the Planning Commission. Notice of such hearing shall be provided in accordance with State statute for public hearings.

In the case of a Planned Unit Development, following completion of the hearing, the Planning Commission shall transmit its recommendation to the Township Board to revoke the planned development approval, require the submittal of an amendment addressing the deficiencies, or confirm the original approval. Upon receipt of the Planning Commission's recommendation, the Township Board shall hold a public hearing prior to making a determination. Following completion

of the hearing, the Planning Commission shall make a decision to revoke the planned development approval, require the submittal of an amendment addressing the deficiencies, or confirm the original approval.

In the case of a Planned Unit Residential Development, following completion of the hearing, the Planning Commission shall make a decision to revoke the planned development approval, require the submittal of an amendment addressing the deficiencies, or confirm the original approval.

**N. Ordinance Amendment**

A planned development approval shall not be considered an ordinance amendment.

**O. Rescindment of Planned Development Approval**

Provided that no portion of the planned development has been constructed, the planned development order may be rescinded by the Township upon request in writing by the owner of the land to which the order pertains. A written agreement rescinding the planned development order shall be executed between the owner of the land and the Director of Planning.

Upon rescindment, the use of the land shall revert to and be governed by the provisions of this Ordinance that would apply if the planned development order had not been issued.

## SECTION 426 PLANNED UNIT DEVELOPMENTS

*Purpose:* This section provides for planned unit developments to further the health, safety, and general welfare of Township residents by permitting the Township flexibility in the regulation of land development and encouraging innovation and variety in land use and design of projects. The standards of this section are intended to encourage and provide for a more efficient arrangement of land uses, buildings, circulation systems, and infrastructure.

### A. Eligibility

#### (1) Generally

An application for a planned unit development may be submitted on any parcel or contiguous parcels within the Township where the site meets one (1) or more of the following criteria:

- (a) Mixed or varied uses are proposed that cannot be achieved under a single zoning district;
- (b) The site exhibits unusual topography or a unique setting within the community;
- (c) Innovation and variety of design are proposed that are not achievable under the current zoning districts of this ordinance;
- (d) Additional amenities are made possible by and incorporated within the development;
- (e) A substantial public benefit is proposed within or as a result of the project;
- (f) A cross-jurisdictional development is proposed that warrants flexibility in terms of design and layout.

Approval will not be granted when the planned unit development is determined to be sought primarily to avoid the imposition of standards and requirements of existing zoning classifications rather than to achieve the objectives of this ordinance.

#### (2) Minimum Site Size

The site on which an application for planned unit development is proposed shall be self-contained and shall contain no less than twenty (20) contiguous acres (exclusive of all existing public and private road rights-of-way on the perimeter of the site). Notwithstanding anything contained in the preceding sentence to the contrary, in the event that a planned unit development is proposed which lies partially within and partially outside the jurisdictional boundary of the Township and that portion lying within the Township is less than twenty (20) acres in size, that portion lying within the Township may, in the discretion of the Planning Commission, be combined with the acreage of those areas of the proposed planned unit development lying beyond the Township's jurisdictional boundaries for purposes of establishing whether the twenty (20) acre minimum has been met.

To encourage flexibility and creativity consistent with the objectives of the zoning ordinance, the Planning Commission may approve projects of less than twenty (20) acres. Such a deviation shall be approved through a finding of fact by the Planning Commission that the deviation meets the purpose of a planned unit development set forth in § 426.E, Approval Criteria. In granting such a deviation, the Planning Commission shall consider factors such as preservation of steep topography, soils unsuitable for development, surrounding land uses which may make the parcel

unsuitable for traditional development, transfer of acreage or easements to the Township or other appropriate organization for broadly beneficial public projects, or truly innovative design. Such a dimensional deviation is not subject to variance approval by the Zoning Board of Appeals.

**(3) Site Accessibility**

A planned unit development shall be directly accessible from major thoroughfares as designated on the Major Thoroughfare Plan for the Township. The Township may authorize a project that does not have direct access to a major thoroughfare, provided appropriate findings of fact are made demonstrating that:

- (a) The project is directly accessible from a public road of suitable design and construction to handle any anticipated traffic that will be generated by the project;
- (b) The anticipated traffic volumes are not reasonably expected to result in adverse impacts for those uses and properties along the public road system; and
- (c) The efficiency and safety of the overall public road system will not be negatively impacted.

**(4) Open Space**

A Planned Unit Development shall be designed to incorporate a minimum of 20% useable open space to supplement the residents of the PUD and/or Garfield Township. These areas are anticipated to provide recreational opportunities such as parks, trails, playgrounds, and other similar opportunities.

**B. Preliminary Review and Decision**

**(1) Generally**

Preliminary review shall establish proposed land uses, project density, site layout and design, proposed vehicular and pedestrian circulation patterns, natural resource protection areas, open space, land use buffers, grading, storm water management patterns, and site servicing. Final engineering is not required for preliminary review and decision. In addition to provisions of this Section, the provisions of § 425 Planned Developments shall also apply.

**(2) Completeness Review**

The Director of Planning shall conduct a completeness review in accordance with § 403 and § 425.D.

**(3) Planning Commission**

- (a) The Planning Commission shall hold a public hearing on the development application.
- (b) Following review and public hearing on the application, the Planning Commission shall make a preliminary recommendation to the Township Board on whether to approve or deny the request for preliminary planned unit development approval. Preliminary recommendation of a planned unit development shall specify all conditions that must be satisfied prior to submission of the planned unit development under § 426.C., Final Review and Decision.
- (c) Preliminary plans may not be changed or amended except as required by final engineering.

**(4) Township Board**

- (a) Upon receipt of the Planning Commission's recommendation, the Township Board may hold a public hearing on the application for preliminary planned unit development approval and may specify additional conditions or requirements that shall be satisfied prior to submission of the planned unit development under § 426.C. Final Review and Decision.
- (b) Preliminary plans may not be changed or amended except as required by final engineering.

**C. Final Review and Decision**

**(1) Generally**

Final review shall address all conditions imposed by the Planning Commission and/or Township Board in the preliminary decision on the planned unit development. Applications for final review and decision shall not be considered until all conditions have been addressed.

**(2) Completeness Review**

The Director of Planning shall conduct a completeness review to determine that all conditions of the preliminary decision have been addressed. No application shall be referred to the Planning Commission until this standard has been satisfied. The appellate agency for purposes of this completeness review is the Planning Commission. Upon certification by the Director of Planning that all requirements of the preliminary recommendation have been satisfied, the application shall be referred to the Planning Commission for its final review and recommendation.

**(3) Planning Commission**

- (a) The Planning Commission may hold a public hearing on such application for final review and decision.
- (b) After review, the Planning Commission shall transmit its final recommendation to the Township Board to approve, approve with final conditions, or deny the request.

**(4) Township Board**

- (a) The Township Board shall hold a public hearing on the application for final review and decision.
- (b) Following review and public hearing, the Township Board shall deny, approve, or approve with final conditions the request for final planned unit development approval. Approval of a planned unit development shall be incorporated in a Report and Decision Order that shall include the decision, the basis for the decision and any final conditions imposed.

**D. Reserved**

**E. Approval Criteria**

In its review of an application the Township shall, at a minimum, consider the criteria as defined in § 426.E.(1) Scope of Authority - Uses through § 426.E.(4) Criteria.

**(1) Scope of Authority - Uses**

A planned unit development may include any principal and other use(s) permitted by right, permitted under special condition or permitted by special use permit in the zoning district where the land is located. The Township Board may also authorize principal and other uses not

permitted in the zoning district where the land is located, provided appropriate findings of fact are made demonstrating that:

- (a) The proposed uses, within the context of the overall development plan, are harmonious and compatible with the planned uses of the site and the surrounding area, as provided for within the master plan;
- (b) The proposed density is in accordance with the policies and objectives set out in the master plan; and
- (c) In areas where the surrounding lands have been substantially developed in accordance with a particular land use character, pattern and density, the planned unit development shall be consistent and compatible with that existing land use character, pattern and density.

**(2) Scope of Authority – Dimensional Standards**

A planned unit development may alter and establish lot size limits, required facilities, buffers, open space areas, density limits, setback requirements, height limits, building size limits, off-street parking regulations, landscaping rules, miscellaneous regulations, and intensity limits where such regulations or changes are consistent with the intent of this section and the standards set forth herein.

**(3) Objectives**

The following objectives shall be considered in reviewing any application for a planned unit development:

- (a) To permit flexibility in the regulation of land development;
- (b) To encourage innovation in land use and variety in design, layout, and type of structures constructed;
- (c) To achieve economy and efficiency in the use of land, natural resources, energy, and the providing of public services and utilities;
- (d) To encourage useful open space; to provide improved housing, employment, and shopping opportunities particularly suited to the needs of the Grand Traverse Region;
- (e) To encourage the innovative use, re-use, and improvement of existing sites and buildings; and
- (f) To permit development in accordance with the policies and objectives of the Charter Township of Garfield Master Plan.

**(4) Criteria**

In order to foster the attractiveness of a planned unit development and its surrounding neighborhoods, preserve property values, provide an efficient road and utility network, ensure the movement of traffic, implement comprehensive planning, and better serve the public health, safety, and general welfare, the following criteria apply to planned unit developments. These criteria shall neither be regarded as inflexible requirements, nor are they intended to discourage creativity or innovation.

- (a) The uses will be compatible with the natural environment, and with adjacent and surrounding land uses and properties, and will not have an adverse economic, social or environmental impact on adjacent and surrounding land uses and properties;

- (b) The uses will be compatible with the capacity of existing public services and facilities, or of planned and feasible future public services and facilities, and such use is consistent with the public health, safety and welfare of the Township residents;
- (c) The uses and development are warranted by the design of additional amenities made possible with, and incorporated by, the development proposal;
- (d) Insofar as practicable, the landscape shall be preserved in its natural state by minimizing tree and soil disturbance and removal;
- (e) Existing important natural, historical and architectural features within the development shall be preserved;
- (f) Proposed buildings shall be sited harmoniously to the terrain and to other buildings in the vicinity that have a visual relationship to the proposed buildings;
- (g) With respect to vehicular and pedestrian circulation and parking, special attention shall be given to the location and number of access points to public streets, minimizing potential motorized/non-motorized conflict points, width of interior drives and access points, general interior circulation, separation of pedestrian and vehicular traffic, and the arrangement of parking areas that are safe and convenient and, insofar as is practicable, do not detract from the design of proposed structures and neighboring properties;
- (h) Landscaping is provided to ensure that proposed uses will be adequately buffered from one another and from surrounding public and private property and, where applicable, to create a pleasant pedestrian scale outdoor environment;
- (i) The development consolidates and maximizes useable open space;
- (j) The benefits of the development are not achievable under any single zoning classification; and
- (k) The development is compatible with the intent and purpose of the adopted master plan.

**F. Amendments**

Amendments to an approved Planned Unit Development shall be considered according to **the review procedure of §423.G and the review criteria of §426.E(4)** of this ordinance.



## **SECTION 427 PLANNED UNIT RESIDENTIAL DEVELOPMENTS (PURD)**

The purpose of this section is to provide for a degree of flexibility and creativity in the planning and design of residential development projects. The standards of this section invite efficient, clustered development on portions of a site so that developers are better able to provide amenities and infrastructure improvements.

Planned Unit Residential Developments may incorporate any residential use which is permitted by right, under conditions, or under Special Use Permit within the Township's various residential zoning districts. It is expected, however, that the proposed use or mix of uses will be compatible within the site itself, but more so be compatible with and similar to existing and planned residential uses in the surrounding area.

### **A. Eligibility**

#### **(1) Generally**

An application for a planned unit residential development may be submitted for any property zoned for residential use, and is especially encouraged on properties designated for redevelopment by the Garfield Township Master Plan. In order to qualify for a PURD the project should be developed using clustered methods and innovative design while providing desirable open space and pedestrian connectivity. In exchange, the Township may authorize reductions in minimum lot size and increases in maximum density which would otherwise apply. Applications which do not meet the purpose and intent of this section will not be accepted. In addition to provisions of this Section, the provisions of § 425 Planned Developments shall also apply.

#### **(2) Site Accessibility**

A planned unit residential development shall be directly accessible from major thoroughfares as designated on the Major Thoroughfare Plan for the Township. The Township may authorize a project that does not have direct access to a major thoroughfare, provided appropriate findings of fact are made demonstrating that:

- (a) The project is directly accessible from a public road of suitable design and construction to handle any anticipated traffic that will be generated by the project; and
- (b) The anticipated traffic volumes are not reasonably expected to result in adverse impacts for those uses and properties along the public road system; and
- (c) Access management controls and connectivity to adjacent properties are utilized to ensure the efficiency and safety of the public road system will not be negatively impacted.

### **B. Preliminary Review and Decision**

#### **(1) Generally**

Preliminary review shall establish proposed land uses, project density, site layout and design, proposed vehicular and pedestrian circulation patterns, natural resource protection areas, open space, land use buffers, grading, storm water management patterns, and site servicing. Final engineering is not required for preliminary review and decision.

**(2) Completeness Review**

The Director of Planning or designee shall conduct a completeness review in accordance with § 403 and § 425.D.

**(3) Planning Commission**

- (a) The Planning Commission shall hold a public hearing on the PURD.
- (b) Following review and public hearing on the application, the Planning Commission shall approve or deny the request for preliminary planned unit residential development approval. Preliminary recommendation of a planned unit development shall specify all conditions that must be satisfied prior to submission of the planned unit residential development under § 426.C., Final Review and Decision.
- (c) Preliminary plans may not be altered or amended except as required by final engineering and authorized by the Director of Planning.
- (d) Pursuant to § 425.L(3), preliminary approvals are valid for 12 months and not subject to an extension. Preliminary approval shall expire automatically.

**C. Final Review and Decision**

**(1) Generally**

Final review shall address all conditions imposed by the Planning Commission in the preliminary decision on the planned unit residential development. Submissions for final review and decision shall not be considered until all conditions have been addressed.

**(2) Completeness Review**

The Director of Planning or designee shall conduct a completeness review to determine that all conditions of the preliminary decision have been addressed. Once the plans and conditions are deemed substantially complete the project shall be referred to the Planning Commission for its final review and decision. No application shall be referred to the Planning Commission until this standard has been satisfied.

**(3) Planning Commission**

- (a) The Planning Commission may hold a public hearing on such application for final review and decision.
- (b) Following review, the Planning Commission shall render a decision to approve, approve with final conditions, or deny the request. Approval of a planned unit residential development shall be incorporated in a Report and Decision Order that shall include the decision, the basis for the decision and any final conditions imposed.

**D. Approval Criteria**

In its review of an application the Township shall, at a minimum, consider the criteria as defined in § 427.D.(1) Scope of Authority - Uses through § 427.D.(4) Criteria.

**(1) Scope of Authority - Uses**

A planned unit residential development may include any residential use(s) permitted by right, permitted under special condition or permitted by special use permit in the various agricultural

or residential zoning districts within the Township, provided appropriate findings of fact are made demonstrating that:

- (a) The proposed density is in accordance with the policies and objectives set out in the master plan; and
- (b) In areas where the surrounding lands have been substantially developed in accordance with a particular land use character, pattern and density, the PURD shall be consistent and compatible with that existing residential uses, land use character, pattern and density.

**(2) Scope of Authority – Dimensional Standards**

A planned unit residential development may alter and establish lot size limits, buffers, open space areas, density limits, setback requirements, height limits, building size limits, landscaping rules, miscellaneous regulations, and intensity limits where such regulations or changes are consistent with the intent of this section and the standards set forth herein.

**(3) Site Design Requirements**

Generally, the design of a site must be found to meet the overall purpose and intent of this section. Additionally, the following specific design standards must be met.

- (a) The site shall be designed in a compact, clustered manner which maximizes the preservation of usable and consolidated open space.
- (b) Open spaces are intended to function as a public areas or parks to encourage neighborhood interaction and recreation opportunities. These areas incorporate amenities such as play structures, pedestrian circulation, pavilions, and other similar design features.
- (c) Sidewalks shall be provided along all streets. Generally, sidewalks should be constructed on each side of the street except where found to serve no useful purpose, such as if there are no homes on one side of the street. Sidewalks along streets shall be constructed of concrete to a minimum width of four (4) feet and shall be separated from the street by a grassy lawn area.
- (d) In addition to the street sidewalks, hard-surfaced pathways connecting open areas, parks and other points of interest shall be provided.
- (e) In mixed-residential settings, each residential use (i.e. single family, multiple family, etc.) shall stand on its own in meeting the integrated site design requirements of this section. The intent of this requirement is for each area to resemble a traditional neighborhood with interior park areas. Useable open space shall be designed so that it is directly accessible to nearby residents.
- (f) There shall be a direct relationship between the residential use, density, and useable space of each project area, and each such areas shall be self contained. For example, an open area located within a far corner of a high-density setting may not meet the intent of this requirement in providing open space and recreation for a neighboring low-density area of the site. However, centrally located open areas which encourage interaction between residential uses by creating shared park-like settings are supported and encouraged.
- (g) The project shall be served by municipal water and sewer services.

**(4) General Criteria**

The PURD is intended to encourage well designed neighborhoods that emphasize safe movement of pedestrian traffic and open areas that encourage active lifestyles and quality of life. The Planning Commission shall determine if the project meets the following standards of approval:

- (a) The project is compatible and harmonious with adjacent and surrounding land uses and properties;
- (b) The project minimizes motorized / non-motorized conflict points and creates a separation of pedestrian and vehicular traffic;
- (c) The development consolidates and maximizes useable open space while encouraging neighborhood interaction;
- (d) The proposed use will retain as many natural features of the property as practicable, particularly where the natural features assist in preserving the general character of the neighborhood;
- (e) The development is compatible with the intent and purpose of the adopted master plan.

**E. Amendments**

Amendments to an approved Planned Unit Residential Development shall be considered according to **the review procedure of §423.G and the review criteria of §427.D(4)** of this ordinance.

## **SECTION 428 OPEN SPACE PRESERVATION OPTION**

*Purpose:* This section provides for Open Space Preservation developments in accordance with Section 506, Open Space Preservation, of the Michigan Zoning Enabling Act. The intent of this development option is to encourage and promote clustered development patterns in a manner that protects developable areas containing natural features and open space.

### **A. Eligibility**

Any parcel or contiguous parcels may be developed under the Open Space Preservation option where the site meets all of the following criteria:

- (1) The land is zoned at a density equivalent of two (2) or fewer dwelling units per acre or, if the land is served by the public sewer system, a density equivalent of three (3) or fewer dwelling units per acre;
- (2) The development does not depend upon the extension of a public sewer or public water system, unless development of the land without exercising the Open Space Preservation development option would also depend upon such extension; and
- (3) The open space preservation option has not been previously exercised with respect to the land.

### **B. Initiation**

An owner of real property, or that owner's authorized representative, may apply for approval of an Open Space Preservation development by filing an application with the Zoning Administrator. The application shall include the material required by § 959 of this Ordinance.

### **C. Completeness Review**

The Director of Planning shall conduct a completeness review in accordance with § 403.

### **D. Procedure**

The Planning Commission shall act as the legislative body for the purposes of final review and approval. Upon receipt of a complete application and after public notice in accordance with applicable state laws, the Planning Commission shall hold at least one public hearing on the application. An Open Space Preservation development shall be approved by the Planning Commission if the application complies with all applicable provisions of this ordinance.

In its review of an application, the Planning Commission shall, at a minimum, consider the criteria of this Section.

#### **(1) Scope of Authority - Uses**

An Open Space Preservation development may include any residential use permitted by right in the underlying zoning district.

#### **(2) Scope of Authority – Lot Size and Width Variation**

The minimum lot area and lot width requirements of the underlying zoning district shall not apply to individual residential lots within an Open Space Preservation development, provided

that all rules relating to the suitability of groundwater for on-site water supply, for land not served by public water, and to the suitability of soils for on-site sewage disposal, for lands not served by public sewers, shall be complied with.

**(3) Scope of Authority –Dimensional Standards**

With the exception of minimum lot area and minimum lot width, any residential use permitted under the Open Space Preservation option shall comply with the minimum setbacks and other dimensional standards of the underlying zoning district.

**(4) Density**

The maximum number of residential dwelling units shall be equal to or less than the maximum number of residential dwelling units permitted by the underlying zoning district, as determined by the net acreage calculations of § 427.C(2)(b)(I).

**(5) Required Open Space**

Open space within an Open Space Preservation development shall meet all of the following criteria:

- (a) Open space shall comprise not less than 50% of the land that could otherwise be developed under the standards and regulations of this ordinance;
- (b) Open space shall remain perpetually dedicated in an undeveloped state by means of a conservation easement, plat dedication, restrictive covenant, or other legal means that runs with the land;
- (c) Open space shall be a minimum of five (5) contiguous acres, or a contiguous 25% of the total development area, whichever is greater;
- (d) Minimal areas between buildings and narrow strips along the perimeter of a development shall not be included in the open space required for an Open Space Preservation project; and

**(6) Open Space Development Plan Approval Order**

If the Planning Commission approves the open space development plan, it shall prepare a written order setting forth the conditions upon which such approval is based. Such order shall be entered into between the Township and applicant prior to the issuance of a land use permit for any construction in accordance with the approved development plan. All reasonable costs related to the preparation of said order, as established by the Township, shall be paid by the petitioner to the Township prior to Township signature and issuance of such order.

**(7) Duration of Approval**

Approval of the open space development plan by the Township shall be for a period of two (2) years from the date of execution of the Report and Decision Order, after which it shall expire automatically. Prior to expiring, the two (2) year approval period may be extended by the Planning Commission for an additional one (1) year if an extension is applied for in writing by the applicant. The applicant shall be required to demonstrate that the reasons for such extension are beyond their control and that the development will commence and continue meaningfully toward completion within the one (1) year extension.

**E. Amendments**

Amendments to an approved Open Space Development shall be considered according to § 429 (L), Condominium Amendments.

## **SECTION 429 CONDOMINIUM DEVELOPMENTS**

*Purpose:* This section provides procedures and standards for the review and approval or denial of condominium developments implemented under the provisions of the Condominium Act (Act 59 of 1978, as amended) and to insure that such developments are consistent and compatible with conventional platted subdivisions as provided for through the Land Division Act (P.A. 288 of 1967, as amended). These regulations are enacted by authority of the Condominium Act, the Michigan Zoning Enabling Act, and this ordinance, as amended, whereby all developments utilizing any form of condominium subdivision of land shall be reviewed and approved or disapproved by the Township.

### **A. Applicability**

#### **(1) Generally**

Prior to recording of the master deed, required by Section 72 of the Condominium Act, a condominium development shall undergo review and approval by the Township in accordance with the provisions of this section. Approval under this section shall be required as a condition to the right to construct, expand or amend a condominium project in the Township.

#### **(2) Condominium Conversions**

The conversion of existing buildings or structures into a condominium form of ownership shall not require review and approval under this section provided that the condominium development shall comply with all regulations of the zoning district in which it is located.

#### **(3) Plat Approval**

Nothing in this section shall be construed as requiring a condominium subdivision to obtain plat approval under the Township Subdivision Control Ordinance.

#### **(4) Planned Developments**

Developments approved pursuant to § 425 Planned Developments are exempt from the requirements of § 429.F Site Condominium Subdivision Review Procedures of this Section.

### **B. Consultation**

In determining whether to approve a condominium development plan, the Planning Commission may consult with the Township Attorney or Township Engineer regarding the adequacy of the master deed, deed restrictions, utility systems and streets, subdivision layout and design, and compliance with all requirements of the Condominium Act. All reasonable costs related to said consultation, as established by the Township, shall be paid by the petitioner to the Township prior to Township signature and issuance of an approval order.

### **C. General Requirements**

#### **(1) Compliance with Federal, State and Local Laws**

All condominium projects shall comply with all applicable Federal, State and local laws and ordinances. No condominium documents shall conflict with the standards of this Ordinance.



**(2) Required Content**

All condominium development plans shall include the information required by Section 66 of the Condominium Act **and the material required by § 956 of this Ordinance.**

**(3) Utility Easements**

The condominium development plan shall include all necessary easements for the purpose of constructing, operating, inspecting, maintaining, repairing, altering, replacing, and/or removing pipelines, mains, conduits, and other installations of a similar character providing public utilities.

**(4) Private Roads**

All private roads in a condominium subdivision shall comply with the specifications of this ordinance.

**(5) Encroachment Prohibited**

Encroachment of one condominium unit upon another, as described in Section 40 of the Condominium Act, shall be prohibited by the condominium bylaws and recorded as part of the master deed.

**(6) Performance Guarantees**

As a condition of the approval of the condominium plan by the Township, a performance guarantee may be required to ensure the construction of required improvements and the completion of filing requirements before land use permits are issued. Upon fulfillment of all requirements and filings, the developer shall apply to the Township for release of performance guarantees.

**D. Mobile/Manufactured Home Condominium Development**

**(1) Generally**

Mobile/manufactured home condominium developments shall conform to the requirements of this ordinance, in accordance with the Condominium Act and other applicable Local and State laws, ordinances and regulations. Such developments shall be located only in a zoning district that provides for Mobile Home Parks.

**(2) Approval Criteria**

The review of a mobile/manufactured home condominium development shall be processed in accordance with § 429.F Site Condominium Subdivision Review Procedures through § 429.L Amendments, below.

**E. Site Condominium Subdivisions**

**(1) Generally**

For the purpose of this section, a site condominium subdivision shall include all developments, in any zoning district, proposed under the provisions of the Condominium Act (Act 59 of 1978, as amended). The procedural provisions of this section shall not apply to condominium developments which are reviewed and approved through the Special Use Permit - Planned Unit Development procedure.

**(2) Standards and Design for Site Condominium Subdivision Projects**

The site condominium subdivision plan shall indicate specific unit dimensions with front, rear and side site condominium lot lines allocated to each condominium unit. For the purpose of this section and to assure compliance with the provisions herein, these parcels shall be referred to as site condominium lots. The description, size, location and arrangement of the site condominium lots shall conform to the requirements of this ordinance. All site condominium subdivision lots shall be deeded as limited common elements for the exclusive use of the owners of the condominium subdivision units. Each condominium dwelling unit shall be located within a condominium lot.

**F. Site Condominium Subdivision Review Procedures**

**(1) Agency Submittal**

The applicant shall provide copies of the proposed site condominium subdivision plan to the following Grand Traverse County Agencies: Health Department (or Department of Public Works if proposed on municipal water and/or sanitary sewer), Drain Commissioner (or Township designee), Soil Erosion-Sedimentation Control Director (or Township designee), Road Commission (or Michigan Department of Transportation if proposed on a state highway), and the Metro Fire Department.

**(2) Independent Review**

An independent engineer or other consultant may be hired, at the applicant's expense, to review the project and make recommendations to the Township.

**(3) Public Hearing**

The Planning Commission shall hold a public hearing on the proposed site condominium subdivision plan, for the purpose of reviewing and making a recommendation of approval, approval with conditions, or denial to the Township Board.

**(4) Planning Commission Determination**

If the Planning Commission determines that the proposed plan meets all requirements of this ordinance and the Condominium Act, the Planning Commission shall recommend approval or approval with conditions of the site condominium subdivision plan and shall send notice of action taken with comments to the Township Board.

If the Planning Commission determines that the site condominium subdivision plan does not meet all requirements, the Planning Commission shall state its reason in its official minutes, shall forward same to the Township Board, and shall recommend disapproval of the plan by the Township Board until the objections causing disapproval have been changed to meet the requirements of this ordinance and the Condominium Act.

**(5) Township Board Procedure**

The Township Board shall not review, approve or reject a site condominium subdivision plan until it has received from the Planning Commission its report and recommendation.

**(6) Township Board Determination**

The Township Board shall approve the site condominium subdivision plan, with or without conditions, reject the plan and give its reasons, table the proceedings pending further review or pending changes to the plan to make it acceptable to the Board, or refer that application back to the Planning Commission for further review and report.

**G. Site Condominium Subdivision Review Criteria**

For purposes of making a decision to approve, approve with conditions or to deny a site condominium subdivision plan, the Township shall consider and make findings with respect to the following criteria:

- (1) That each condominium lot in a site condominium subdivision shall be considered as a single lot and shall comply with all regulations of the zoning district in which it is located. In a condominium development containing single-family detached dwelling units, not more than one (1) dwelling unit shall be located on a condominium lot, nor shall a dwelling unit be located on a condominium lot with any other principal structure or use. Required yards shall be measured from boundaries of a condominium lot. These requirements shall be made part of the bylaws and recorded as part of the master deed;
- (2) That there is a proper relationship between the existing streets and highways within the vicinity, and proposed deceleration lanes, service drives, entrance and exit driveways, and parking areas to assure the safety and convenience of pedestrian and vehicular traffic, and that the proposed streets and access plan conform to any street or access plan adopted by the Township or the County Road Commission;
- (3) That as many natural features of the landscape shall be retained as possible, particularly where they furnish a barrier or buffer between the project and adjoining properties used for dissimilar purposes, and where they assist in preserving the general appearance of the neighborhood or help control erosion or the discharge of storm waters;
- (4) That any adverse effect of the proposed development and activities emanating therefrom upon adjoining residents or owners shall be minimized by appropriate screening, fencing or walls, or landscaping;
- (5) That all provisions of this ordinance are complied with;
- (6) That all site condominium lots shall be provided access by either public or private roads in conformance with the requirements of this ordinance. All site condominium units shall be accessible to emergency vehicles;
- (7) That a plan for erosion control and storm water discharge has been approved by the appropriate public agency; and
- (8) That the plan as approved is consistent with the intent and purpose of zoning to promote public health, safety and general welfare; to encourage the use of lands in accordance with their character and adaptability to avoid the overcrowding of population; to lessen congestion on the public roads and streets; to reduce hazards to life and property; to facilitate adequate provisions for a system of transportation, sewage disposal, safe and adequate water supply, education, recreation and other public requirements; and to conserve the expenditure of funds for public improvements and services to conform with the most advantageous uses of land, resources and

properties; to preserve property values and natural resources; and to give reasonable consideration to character of a particular area, its suitability for particular uses and the general appropriate trend and character of land, building, and population development and is otherwise in compliance with law.

#### **H. Conditions and Limitations of Approval**

The approval by the Township will indicate that the proposed site condominium subdivision plan meets the provisions of Section 141(1) of the Condominium Act relating to the ordinances and regulations of Garfield Township. Such approval does not cover additional permits that may be required after the Master Deed has been recorded. Condominium Protective Covenants and Deed Restrictions which hold harmless the Township for improvements within the site condominium subdivision and which require conformance with all conditions and requirements of condominium plan approval and this ordinance shall be required.

Condominiums may not be amended without Township consent. Therefore, the Condominium Master Deed and Bylaws shall include the following statement: "Condominium Amendments which are recorded prior to the receipt of written Garfield Township Planning Department approval shall be considered null and void."

#### **I. Site Condominium Subdivision Plan Approval Order**

If the Township Board approves the site condominium subdivision plan, it shall prepare a written order setting forth the conditions upon which such approval is based. Such order shall be entered into between the Township and applicant prior to the issuance of a land use permit for any construction in accordance with the approved site condominium subdivision plan. All reasonable costs related to the preparation of said order, as established by the Township, shall be paid by the petitioner to the Township prior to Township signature and issuance of such order.

#### **J. Duration of Approval**

Approval of the site condominium subdivision plan by the Township shall be for a period of two (2) years from the date of execution of the Report and Decision Order, after which it shall expire automatically. Prior to expiring, the two (2) year approval period may be extended by the Planning Commission for an additional one (1) year if an extension is applied for in writing by the applicant. The applicant shall be required to demonstrate that the reasons for such extension are beyond their control and that the development will commence and continue meaningfully toward completion within the one (1) year extension.

#### **K. Additional Filings Required**

##### **(1) Documents**

Subsequent to the recording of the condominium plan, master deed, bylaws and deed restrictions, the developer shall file two (2) copies of each document, including all pertinent attachments, with the Township.

**(2) Certification and As-Built Drawings**

Subsequent to the construction of all improvements, the developer shall file with the Township two (2) copies of the as-built condominium plan and a certification from the developer's engineer that the improvements have been installed in conformance with the approved construction drawings.

**L. Condominium Amendments**

An approved condominium plan may be amended as indicated below and following the submittal of a completed application to the Planning Department, a description of the intended changes, and all necessary condominium documents, plans, and agency reviews, when necessary.

**(1) Minor Amendments**

The Director of Planning may authorize the following amendments to an approved condominium plan:

- (a) The relocation of internal boundaries, as described in Section 48 of the Condominium Act, may be approved by the Director of Planning provided such change conforms to all requirements of this ordinance for the zoning district in which the project is located. The requirement for Township approval of any relocation of boundaries shall be made part of the condominium bylaws and recorded as part of the master deed.
- (b) Secondary residential access may be approved by the Director of Planning provided the access meets the standards of Section 521 Street Standards and is limited to not more than two (2) properties.
- (c) Minor changes to an approved site condominium subdivision plan that alter the size, shape, intensity or configuration of a condominium unit, or that permit the realignment of a condominium unit or building location, or that adds roads or secondary access in excess of two (2) but no more than four (4) units may be authorized by the Planning Commission without further public hearing, provided that such minor changes comply with the following criteria:
  - (i) No new condominium unit may be created by the change;
  - (ii) No previous amendments have been granted that, together with the proposed amendment, would exceed the standards of this section;
  - (iii) There will be no detrimental impact on any adjacent property caused by significant change in the appearance or use of the property, or any other contributing factor;
  - (iv) Nothing in the currently valid condominium development approval order precludes or otherwise limits such change; and
  - (v) The proposal conforms to this ordinance and is in keeping with the spirit and intent of any adopted master plan.

**(2) Major Amendments**

Any proposed amendment to a condominium other than as indicated in this section are considered a major amendment and shall be approved in the same manner and under the same procedures as are applicable to the issuance of the original condominium approval.

**SECTION 430 (Reserved)**

***DIVISION 6: INTERPRETATIONS, APPEALS AND VARIANCES***

**PURPOSE**

The purpose of this division is to establish procedures for interpretations, appeals, and variances of this ordinance to the Zoning Board of Appeals. The Zoning Board of Appeals shall comply with the requirements of the Michigan Zoning Enabling Act (MZEA), PA 110 of 2006, as amended, as well as, the requirements of this ordinance.

**SECTION 451 GENERALLY**

**A. Powers and Duties of the Zoning Board of Appeals**

- (1) The Zoning Board of Appeals shall consider and decide all applications for interpretations, appeals and variances, except as otherwise provided in this ordinance, and take testimony and evidence as provided in this ordinance.
- (2) Failure to comply with or maintain compliance with any decision or conditions imposed by the Zoning Board of Appeals in a decision or permit shall constitute a violation of this ordinance.
- (3) The Zoning Board of Appeals shall not amend, alter, or interpret in any manner a Quasi-Judicial determination or order of the Township Board or Planning Commission.

**B. Land Use Permits**

Following a Zoning Board of Appeals decision, the Zoning Administrator may, upon application, issue a Land Use Permit. If the applicant proceeds with construction based on the Zoning Board of Appeals decision and prior to the expiration of the appeal period described in the MZEA and in this Article, the applicant proceeds at its own risk.

**C. Reapplication**

No application for an interpretation, variance or appeal which has been denied wholly or in part by the Zoning Board of Appeals shall be re-submitted for a period of one (1) year after such denial, except on grounds of new evidence or proof of changed conditions as determined by the Zoning Administrator.

**SECTION 452 INTERPRETATIONS BY THE ZONING BOARD OF APPEALS**

**A. Applicability**

- (1) The Zoning Board of Appeals shall hear and interpret, upon request, the provisions of this ordinance in such a way as to carry out the intent and purpose of this ordinance.
- (2) The Zoning Board of Appeals shall hear and interpret, upon request, the zoning map and determine the precise location of the boundary lines between zoning districts.

**B. Initiation**

A request to interpret the provisions of this ordinance may be initiated a member of the public, by the Zoning Administrator, or by Director of Planning.

**C. Decision**

The Zoning Board of Appeals shall hold a public hearing after Notice is provided as set forth by State Law. The Zoning Administrator shall submit a report to the Zoning Board of Appeals which provides background information, including any previous interpretations relevant to the request, and which evaluates the requested interpretation. The Zoning Board of Appeals shall render an interpretation after considering the evidence presented at this hearing. Interpretations shall be promptly reported to the Planning Commission to consider the need for amending the Zoning Ordinance.

**D. Precedent**

An earlier determination under this section shall not be considered a precedent for other applications proposing the same request in the land use district.

**SECTION 453 APPEALS TO THE ZONING BOARD OF APPEALS**

**A. Applicability**

The Zoning Board of Appeals shall hear and decide appeals where it is alleged that there is an error in a previously granted written order, requirement, decision, interpretation, or determination made by the Zoning Administrator or the Director of Planning in the enforcement of this zoning ordinance that specifically provides for appeal to the Zoning Board of Appeals. Appeals may be filed by any person aggrieved, by the Zoning Administrator, or by an officer of the Township.

**B. Initiation**

An appeal and supporting documents shall be filed with the Zoning Administrator. The application shall state fully and in detail the basis of the appeal, the variance requested and the special conditions and circumstances applying to the building, other structure or land for which such variance is sought. The Zoning Administrator may reject an application that does not meet the requirements of this ordinance.

**C. Stay of Proceedings**

When an appeal is filed to the Zoning Board of Appeals, all proceedings in furtherance of the action affected by the decision being appealed shall be stayed unless a stay would, in the opinion of the Zoning Administrator, cause imminent peril to life or property.

**D. Decision**

- (1) The Zoning Board of Appeals shall give public notice of the hearing in accordance with State Law, shall hold the hearing, and shall decide the appeal within a reasonable time.
- (2) Any person may appear before the Zoning Board of Appeals at any hearing, in person, or by agent or attorney.
- (3) The Zoning Board of Appeals may:
  - (a) Reverse or affirm, wholly or partly, or may modify a previously granted order, requirement, decision, or determination appealed;
  - (b) Make such order, requirement, decision, or determination as ought to be made; and
  - (c) Exercise all the powers of the officer or agency from whom the appeal is taken.

**E. Reserved**

## **SECTION 454 VARIANCES**

### **A. Applicability – Dimensional Variances**

The Zoning Board of Appeals may authorize a non-use variance relating to the construction, structural changes, or alterations of buildings or structures related to dimensional requirements of this ordinance, or to any other non-use related standard of this ordinance, that comply with the requirements of this section.

### **B. Applicability – Use Variances**

The Zoning Board of Appeals shall not grant a use variance or take any action that would have the effect of granting a variance from the permitted use of land.

### **C. Initiation**

A variance application and supporting documents shall be filed with the Zoning Administrator. The application shall state fully and in detail the variance requested and the special conditions and circumstances applying to the building, other structure or land for which such variance is sought. The Zoning Administrator may reject an application that does not meet the requirements of this ordinance.

### **D. Decision**

The Zoning Board of Appeals shall hold a public hearing. Notice shall be provided as set forth in State Law. The Zoning Administrator shall submit a report to the Zoning Board of Appeals and the applicant which evaluates the application based on the criteria required by this section. The Zoning Board of Appeals shall render a decision and deny, approve, or approve with conditions the variance after considering the evidence presented at this hearing. In addition to the specific conditions of approval called for in this ordinance, such other conditions regarding location, character, landscaping or treatment as are reasonably necessary to the furtherance of the intent and spirit of this ordinance and the protection of the public interest may be attached to the decision.

### **E. Approval Criteria**

#### **(1) Practical Difficulty**

To qualify for a dimensional variance, the applicant shall be required to show “practical difficulty” by demonstrating compliance with all of the following criteria:

- (a) Special conditions or circumstances exist that are peculiar to the land, buildings, or other structures for which the variance is sought, do not apply generally to lands, buildings, or other structures in the same district, and could not reasonably be addressed through the formation of general regulation for such conditions. Special circumstances or conditions to be considered for variances shall include, but not be limited to, the circumstances as described in § 454.E.(3);
- (b) The special conditions and circumstances peculiar to the land, buildings or other structures did not result from a self-created condition or action taken by the applicant or an owner of the lands;
- (c) The special conditions and circumstances are such that strict application of the provisions of this ordinance would deprive the applicant of any reasonable use of the land, building, or structure authorized by this Zoning Ordinance;
- (d) Literal interpretation of the provisions of this ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of this ordinance; and



- (e) For the purpose of this section, a practical difficulty shall not exist because an applicant would incur additional costs to achieve full compliance or could receive additional income with less than full compliance with the ordinance.

**(2) General Criteria**

Where the applicant is able to demonstrate “practical difficulty” by satisfying all of the criteria of § 454.E.(1), a dimensional variance may be granted if it meets the following general criteria:

- (a) The requested variance shall relate only to property that is under the control of the applicant;
- (b) No nonconforming neighboring lands, buildings, or other structures, legal or illegal, in the same district, and no permitted buildings, or other structures in adjacent districts, shall be considered as grounds for the issuance of a variance;
- (c) The requested variance shall be in harmony with the general purpose and intent of this ordinance and shall not be detrimental to the public health, safety and welfare;
- (d) The requested variance shall not alter the essential character of the area or cause a substantial adverse effect upon properties in the immediate vicinity or in the district in which the property of the applicant is located; and
- (e) The requested variance is the minimum variance that will make possible the reasonable use of the land, building, or structure, and there is no reasonable alternative location on the parcel for the proposed improvements for which a variance is sought where such alternative location would eliminate the need for the requested variance or reduce the extent of the condition(s) necessitating the variance.

**(3) Special Conditions or Circumstances**

Special conditions or circumstances to be considered for the purposes of § 454.E.(1) shall include, but not be limited to, the circumstances as described below:

**(a) Physical Conditions**

The proposed project site contains physical conditions such as narrowness, shallowness, shape, or topography of the property involved that do not generally apply to other property or uses in the same zoning district.

**(b) Significant Vegetation or Natural Features**

The proposed project site contains significant vegetation or other natural features identified as Stream Environment/Wetland by the Garfield Township Master Plan.

**(c) Substandard Lot(s)**

The proposed project involves the utilization of an existing legal nonconforming lot(s).

**(d) Historic Resources**

The proposed project site contains historical significance.

**(e) Neighborhood Character**

The proposed project promotes the established historic or traditional development pattern of a blockface, including setbacks, building height, and other dimensional requirements.

**F. Voiding of Variance**

Each variance granted under the provisions of this ordinance shall become null and void one (1) year after the date the variance was granted, unless the construction authorized by such variance or permit has begun and is pursued diligently to completion, or the occupancy and operation of land or buildings authorized by such variance has taken place.

### **G. Declared Voiding of Variance**

A variance granted by the Zoning Board of Appeals may be declared null and void by the Zoning Administrator where there has been a change in a material circumstance or fact upon which the variance was issued, such as, but not limited to, destruction of a building or natural feature, vacation of a street or a change in topography. Before so declaring a variance null and void, the Zoning Administrator shall notify the landowner in writing and, that declaration shall be subject to appeal to the Zoning Board of Appeals.

***DIVISION 7: ENFORCEMENT, VIOLATIONS, AND PENALTIES***

**PURPOSE**

This Division establishes legal authority and procedures for enforcement of the Zoning Ordinance.

**SECTION 461 TYPES OF VIOLATIONS**

**A. Municipal Civil Infraction**

A person who violates any provision of the Ordinance is responsible for a municipal civil infraction. Each day a violation is permitted to exist constitutes a separate offense.

**B. Nuisance Per Se**

Any structure which is erected, altered or converted, or any use of any structure or land which is commenced or changes after the effective date of this ordinance, in violation of any of the provisions herein, is declared to be a nuisance per se, and may be abated by order of any Court of competent jurisdiction. Any use of land or dwellings, buildings, or structures, including tents and trailer coaches, used, erected, altered, razed or converted in violation of any provision of this ordinance is hereby declared to be a nuisance per se. The Court shall order such nuisance abated and the owners and/or agent in charge of such dwelling, structure, tent, trailer coach or land shall be adjudged guilty of maintaining a nuisance per se.

**SECTION 462 CIVIL ENFORCEMENT**

**A. Enforcement Actions**

The Zoning Administrator, or any proper person, may institute any appropriate civil action or proceedings to prevent violations or threatened violations of these regulations. In particular, but without limitation, in case any building or structure is erected, constructed, reconstructed, altered, repaired, converted, or maintained, or any building, structure, or land is used in violation of this ordinance, the Zoning Administrator, or any proper person, may institute any appropriate action or proceedings to:

- (1) Prevent such unlawful acts and restrain, correct, or abrogate such violation;
- (2) Prevent the occupancy of the building, structure, or land; or
- (3) Prevent any illegal act, conduct, business, or use in or about such premises, including, but not limited to, all remedies provided in the Michigan Zoning Enabling Act.

The imposition of any penalty does not preclude the Township, or any proper person, from instituting any appropriate action or proceedings to require compliance with the provisions of this ordinance, and with administrative orders and determinations made under this ordinance.

In addition to the municipal civil infraction remedies provided above, the violation of any provision of this ordinance may be legally enjoined and otherwise abated in any manner provided by law.

**SECTION 463 VIOLATION OF CONDITIONS**

**A. Penalty**

The violation of any condition imposed pursuant to a development order, or a development approval pursuant to this ordinance, including, but not limited to, a special use permit, a planned unit development or a conditional zoning approval, is a violation of this ordinance and may be prosecuted in municipal court regardless of whether civil or administrative action is taken against the development approval holder.

**B. Revocation of Development Approval**

The Zoning Administrator is authorized to issue any administrative order necessary to terminate or suspend a use found by the Planning Commission, as a result of the administrative processes noted in this article, to be in violation of a condition.

**C. Civil Action**

The Zoning Administrator may request the Township attorney to institute a civil action as prescribed in this article regardless of whether a criminal or administrative action is taken against the development approval holder.

**SECTION 464 RESERVED**

**SECTION 465 COMPLETION OF SITE IMPROVEMENTS**

**A. Liability**

Applicants for development under this ordinance shall be held liable to the Township for the completion of all site improvements required by these regulations, until such time as the improvements shall have been actually completed and accepted by the Township.

**B. Remedy**

If the construction of site improvements has been guaranteed by any form of security and such improvements have not been completed and accepted by the Township within the time period prescribed by these regulations, the Township, after written notification has been given to the applicant, shall take such action as may be required to cause payment to be made to the Township of the amounts of money secured by a guarantee of performance. Such amounts of money shall be used by the Township to finance the completion of the required improvements. In the event that the amounts of money referred to above are insufficient to finance the completion of the required improvements, the Township shall so notify the applicant in writing and shall require the applicant either to complete the improvements without delay or to make available to the Township the amount of money required to finance their completion. Should the applicant fail to do either of the above, and such failure is not due to strikes, riots, acts of God, acts of a public enemy, injunction, or other court action, or any other cause similar to those enumerated beyond the applicant's control, the Township shall refer the matter to the Township attorney for such action as the Township attorney may deem appropriate to compel the applicant to comply with the provisions of the improvement agreement entered into by the applicant as a condition precedent to the approval of the application, or to pursue any other remedy that may be available to the Township.

**C. Exemptions**

This section does not apply if an applicant is prevented from completing and having accepted such required site improvements within the prescribed time by reason of strikes, riots, acts of God, acts of a public enemy, injunction, or other cause similar to those enumerated beyond the applicant's reasonable control. The applicant shall be entitled to an extension of time equal to the time of such delay that shall be fixed by written certificate made by the Township. It is expressly declared that no such allowance of time will be made unless claimed by the applicant and allowed and certified in writing by the Township at the end of each period of such delay.

# ARTICLE 5

## DEVELOPMENT STANDARDS

### *DIVISION 1: GENERAL*

#### **SECTION 500 PURPOSE**

The purpose of the regulations contained in this Article is to protect the public health, safety, and general welfare; to promote harmonious and orderly development; and to foster civic beauty by improving the appearance, character and economic value of civic, commercial and industrial development.

#### **SECTION 501 APPLICABILITY**

This article applies to any application for development approval, except as otherwise provided.

#### **SECTION 502 DEVELOPMENT PLAN / DATA REQUIREMENTS**

A complete application consists of the appropriate application form, application fee as required by the adopted by the Charter Township of Garfield Fee Schedule, required escrow, and all additional information necessary to verify compliance with this Article.

### *DIVISION 2: DESIGN STANDARDS*

#### **SECTION 505 PURPOSE**

This section establishes regulatory requirements for land development, infrastructure, and site design. The purpose of these provisions is to minimize nuisances associated with development practices which are not consistent with the orderly development of Garfield Township.

#### **SECTION 510 LOTS**

##### **A. Buildings**

Every building shall be located on a lot. In a residential zoning district, no more than one (1) principal building is permitted on a lot unless otherwise provided in the applicable zoning district regulations.

##### **B. Compliance with Zoning District Regulations**

The size, width, depth, shape, and orientation of lots shall comply with the applicable zoning district regulations.

##### **C. Frontage / Width**

All lots shall front on a public or private street and shall have a minimum frontage width as indicated in the zoning district regulations.

##### **D. Flag Lots**

No flag lot shall be permitted unless the entirety of the "pole" section meets minimum requirements for road frontage and the lot as a whole meets the minimum depth-to-width ratio.

##### **E. Reserved.**

##### **F. Corner Lots**

Corner lots shall have two (2) front setbacks along the roadways and two (2) side yard setbacks.

**G. Dwelling on Undersized Legal Lot of Record**

A legal lot of record within a residential district which measures less than the minimum area for the district may be used for a single-family dwelling, provided that all required setbacks of the zoning district in which the lot is located are complied with.

**H. Reduction of Lot Size or Setback by Governmental Action**

Where an existing lot conforming to all requirements of this ordinance is reduced in size as a result of governmental action, and the owner of such lot then does not own sufficient land to enable the lot to conform to the dimensional requirements of this ordinance, such lot may be used as a building site for a single-family residence or other nonresidential use permitted in the district in which the lot is located, provided that:

- (1) All required setbacks of the zoning district in which the lot is located are complied with; or
- (2) The Zoning Administrator has approved, as a building site, a dimension that conforms as closely as possible to the required dimensions of this ordinance..

**SECTION 511 DRIVEWAYS FOR SINGLE FAMILY AND TWO-FAMILY PROPERTIES**

- A. All residential driveways for single family and two-family properties not built within an access easement shall be placed a minimum of 10 feet from the property line.
- B. Driveways shall be a minimum of 12 feet in width without obstruction to a height of 12 feet.
- C. Driveways may be used for the parking of vehicles, recreation vehicles, boats, campers or trailers provided they are licensed to be used on the roadway and/ or water and in working condition.

**SECTION 512 ACCESS MANAGEMENT and RESTRICTIONS**

The intent of this Section is to provide safe and efficient travel along public roadways within Garfield Township. Due to the rapid and continuous growth of our community, the implementation of access management standards is necessary for undeveloped lands and the redevelopment of lands. These roadways tend to serve higher volumes of regional traffic and require increased access control measures to preserve their traffic functionality and safety. There is no inherent right to receiving access or additional access to a parcel or parcels.

1. Reviewing Authority

- a. The Planning Commission shall be the reviewing authority regarding access for the development of property and shall have the authority to require a reduction in current or proposed road access locations and/or require shared access to one (1) or more parcels.
- b. The Zoning Administrator shall review driveways to newly created single-family lots with frontage on a County Road.

2. Access Control Measures

All land located within a single property tax code and fronting on a state highway or county road shall be entitled to one (1) driveway or road access per existing parcel. Parcels when subsequently subdivided for the purpose of development, either as metes and bounds described parcels, platted subdivision, condominium developments, and/or projects subject to Sections 422-429 of this Ordinance shall be accessed by public or private roads, service drives, or other approved means of shared access that limits access to public roadways.

### 3. Qualifying Standards for Additional Access

- a. Access to land fronting a County Road may be permitted to exceed one (1) driveway or road access per existing parcel provided that each of the following standards can be met:
  - i. The request is not a result of a self-created issue by current or previous ownership.
  - ii. The request is not contrary to a previously approved plan or project that limited access to the parcel.
  - iii. Cross-access easements are provided to adjacent properties and all parcels are interconnected to achieve the intent of this Section.
  - iv. Each additional access is located in such a manner that there is a minimum of 300 feet of separation measured from centerline to centerline of current and proposed road access.
- b. Access to land located along Hartman and Hammond Roads may be permitted to exceed one (1) driveway or road access per existing parcel provided that there is a minimum of 400 feet of separation measured from centerline to centerline of current and proposed road access, and provided further that the standards in Section 3a i, ii, and iii above can be met.
- c. All lands fronting on US-31 may be permitted to exceed one (1) driveway or road access per existing parcel provided that there is a minimum of 600 feet of separation between each road access measured from centerline to centerline of current and proposed road access, and provided further that the standards in Section 3a i, ii, and iii above can be met.

### 4. Relief and Flexibility

- a. The Planning Commission may allow relief from the separation standard stated in Section 3 above provided that the applicant can meet the Qualifying Standards of Section 3, and further provided that the each of the following standards can be met:
  - i. The applicant has demonstrated that the access separation required under this Section is not feasible due to a public safety concern OR additional access in strict compliance with the access separation required under this Section will be detrimental to natural features such as streams, wetlands, steep slopes, or other natural features.
  - ii. The separation distance is the minimum possible to satisfy the separation intent of this Section.
  - iii. The additional access is located the minimum distance from proposed and existing road access.
  - iv. The request is not a means of circumventing the intent of this Section or the Ordinance.
- b. The Zoning Administrator may allow relief from the separation standard stated in Section 3 above in the case of single-family residences provided that each of the following standards can be met:
  - i. The creation of the lot is for the purpose of one (1) single-family residence.
  - ii. The access to the parcel is permitted by the Grand Traverse County Road Commission (GTCRC) and meets all required County standards.
  - iii. The request is not a means of circumventing the intent of this Section or the Ordinance.
- c. The Zoning Administrator may allow relief from the separation standard stated in

Section 3 above in the case of agricultural driveways provided that each of the following standards can be met and continue to be met:

- i. The proposed driveway remains permitted as an Agricultural Entrance by the GTCRC in the case of a county road or is permitted as a Residential Driveway or Farm Field Driveway by the Michigan Department of Transportation (MDOT) in the case of a state highway.
- ii. The proposed driveway serves an Agricultural Operation as defined in this Ordinance in the determination of the Zoning Administrator.
- iii. The request is not a means of circumventing the intent of this Section or the Ordinance.

#### 5. Service Drive Design Standards

When applicable, the applicant shall submit an engineered plan for the review of a service drive by the Township Engineer for compliance with engineering, construction, stormwater, and/or traffic standards, if necessary.

- a. At the minimum, service drives shall be constructed at a width of twenty (20) feet and shall be constructed in accordance with the Design Guidelines – AASHTO Interim Structural Pavement Design Procedure Adopted for All Season County Roads, as amended.
- b. At the minimum, a 15-foot snow storage and landscaping area on either side of the service drive or the equivalent shall be provided.
- c. The access drive shall be constructed of a hard surface such as asphalt, concrete, permeable pavement or pavers, or similar materials approved by the Township, but not including gravel.
- d. Adequate stacking and maneuvering shall be provided to avoid unnecessary vehicular stacking hazards.
- e. The approval document and engineered plan shall be recorded in accordance with Section 425.H of the Ordinance.
- f. Construction of the service drive shall be required prior to the issuance of a Certificate of Occupancy for a permitted use.

#### 6. Maintenance

- a. A joint maintenance agreement addressing the standards of Section 521.F(3) - Private Street Maintenance Agreement shall be entered into and recorded with any Service Drive at the Grand Traverse County Register of Deeds.
- b. Joint maintenance agreements shall be recorded as a general deed restriction and shall bind the owners, including their successors and assigns, of all lots, parcels, or condominium units with access to the service drive.

#### 7. Limited Use

- a. In order to avoid undue interference with the shared use of any Service Drive, uses such as storage, display, loading or unloading, or similar actions that interfere with the use of a Service Drive are prohibited.
- b. Any access, including construction access, shall be in accordance with the approved plan.



## 8. Existing Projects

Projects previously approved either as platted subdivision, condominium development, and/or projects subject to Sections 422-429 of this Ordinance shall follow the Major Amendment procedure to request additional access to applicable roadways. No inherent right exists to receive additional access to a parcel regardless of meeting the separation distance.

### **SECTION 513 COMMERCIAL AND INDUSTRIAL JOINT DRIVEWAYS**

Commercial and industrial joint driveways shall be permitted subject to the following standards:

- A. Not more than three (3) parcels shall be served by a joint driveway.
- B. The minimum easement width shall be twenty-four (24) feet.
- C. The minimum pavement width shall be twenty (20) feet.
- D. A joint driveway maintenance agreement addressing the standards of Section 521.F.(3) Private Street Maintenance Agreement shall be entered into. Such agreement shall further address arrangements for standing, loading and unloading in order to avoid undue interference with the shared use of any joint driveway.
- E. A joint driveway easement agreement legally describing the driveway and providing for shared use of the driveway shall be entered into.
- F. The joint agreements entered into pursuant to subsections (D) and (E) above shall be recorded as a general deed restriction and shall bind the owners, including their successors and assigns, of all lots, parcels and condominiums units with access to the joint driveway. A copy of the recorded easement agreement and maintenance agreement shall be submitted to the Township prior to the issuance of a land use permit.
- G. Setback standards shall apply from the shared property line and not from the limits of the joint driveway easement.
- H. In the event that a joint driveway or parking area is constructed over a shared property line, the approval authority may permit the relocation of the required property line landscaping per § 531 or § 532 to an alternate location which will screen the shared drive and parking area.

### **SECTION 514 COMMERCIAL AND INDUSTRIAL JOINT ALLEYS**

Commercial and industrial alleys shall be permitted subject to the following standards:

- A. The alley will be private, and the Road Commission or Department of Transportation will have no obligation to maintain the alley in any manner.
- B. The minimum easement width shall be thirty (30) feet.
- C. The minimum pavement width shall be twenty-two (22) feet.
- D. The private alley shall conform to the minimum pavement structure standards adopted by the Grand Traverse County Road Commission except as otherwise provided for in this Section. Certification that the private alley meets the County Road Commission minimum pavement structure standards shall be provided by a licensed engineer.
- E. A private alley maintenance agreement addressing the standards of Section 521.F.(3) Private Street Maintenance Agreement shall be entered into. Such agreement shall further address arrangements for standing, loading and unloading in order to avoid undue interference with the shared use of any alley.
- F. A private alley easement agreement legally describing the alley and providing for shared use of the alley shall be entered into.
- G. The joint agreements entered into pursuant to subsections (E) and (F) above shall be recorded as a general deed restriction and shall bind the owners, including their successors and assigns, of all lots,

parcels and condominiums units with access to the alley. A copy of the recorded easement agreement and maintenance agreement shall be submitted to the Township prior to the issuance of a land use permit.

H. Setback standards shall not apply from the limits of the alley easement.

## SECTION 515 FENCES AND WALLS

The intent of this section is to regulate the location, placement, materials, type, and height of fences to ensure safe sight lines at intersections and to minimize any potential negative visual impacts of unsightly fences and storage areas. For screening of outdoor storage areas, also see § 613, Outdoor Storage.

### A. Design

#### (1) Articulation

No fence or wall facing and visible from a public street shall exceed fifty (50) horizontal feet in length unless one of the following architectural features visible from the paved surface of the street is provided as part of the fence:

- (a) A column or pillar; or
- (b) Articulation of the surface plane wall by incorporating plane projections or recesses having a depth of at least six (6) inches and extending a horizontal distance of at least three (3) feet and less than twenty (20) feet.
- (c) Landscaping may be substituted for (a) or (b) above.

Landscaping such as climbing vines, shrubs, or trees planted along the base of that portion of the wall or fence that fronts a public street may be substituted for (a) or (b) above. The remaining setback area between the fence and property line shall be landscaped with grass or other low ground cover. All plants shall be irrigated and maintained consistent with the provisions of this article. Only living vegetation may be used to meet these landscaping requirements.

#### (2) Exception For Articulation

- (a) Articulation of this article does not apply to a fence or wall constructed of brick, masonry, or decorative iron fencing.
- (b) Individual single family and two family lots are exempt from meeting the articulation requirement except where such lot is located along the perimeter of a tract, parcel, plat, site condominium, or planned unit development approved for residential purposes and abutting a collector or arterial street.

#### (3) Integration

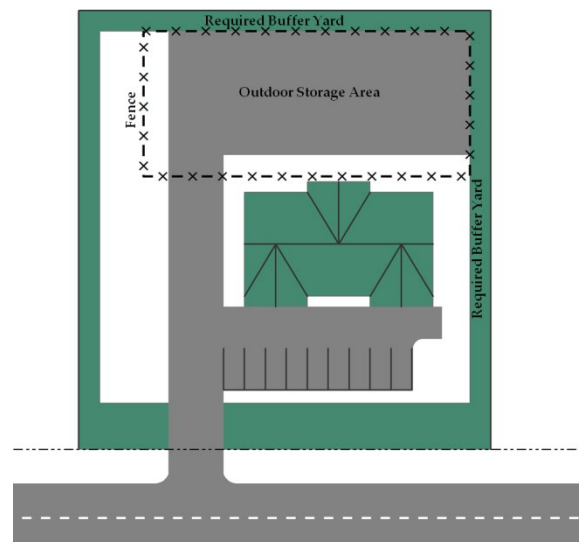
All fencing (in any district) shall be constructed so as to conceal or integrate into the architecture of the fence structural members. In stockade type fencing construction the finished side shall face outward.

#### (4) Placement

Where fencing is used to screen and/or secure approved outdoor storage areas, the fencing shall be placed interior to any required landscaping buffer (i.e. between the required buffer and the outdoor storage area). See illustration at right.

### B. Material

- (1) Residential single family and two family lots may use the following material for fencing:



- (a) Chain link, wood, stone, rock, decorative concrete block, masonry brick, brick, decorative wrought iron, or other materials similar in durability.
- (2) Uses other than residential single family and two family lots are limited to the following types fencing material:
  - (a) Wood, stone, rock, decorative concrete block, masonry brick, brick, decorative wrought iron, or other materials that are similar in durability.
  - (b) Chain link may be acceptable when not in prominent view from a public street and provided a vegetative screen of living plant material is incorporated to provide screening and vegetative enhancement. Chain link fencing shall not incorporate "slats" for screening purposes.
  - (c) Where fencing is to be used for screening purposes, the Zoning Administrator upon review of a site plan or the Planning Commission upon review of a special use may require additional landscaping or allow an alternative fencing material or combination of plantings and materials to adequately screen a use. Also see § 613, Outdoor Storage.
- (3) The following materials shall not be used for fencing or screening in any district:
  - (a) Cast-off, secondhand, or other items not originally intended to be used for constructing or maintaining a fence;
  - (b) Plywood, particle board, paper, and visqueen plastic, plastic tarp, or similar material; and
  - (c) Razor wire and other similar fencing materials capable of inflicting significant physical injury.
- (4) The following materials shall not be used for fencing or screening except for the use or within the district specified unless otherwise approved by the Planning Director:
  - (a) Barbed wire may be used only for livestock enclosures in the A District, for public service installations, or for security purposes in the I-L or I-G Districts.
  - (b) Permanent electrified fencing may be used only for livestock enclosures in the A District and shall be appropriately signed to indicate that the fence is electrified.

### **C. Height**

- (1) Front Yard  
No fence, vegetative screening or wall shall exceed a height of four (4) feet in the front yard. No fence, vegetative screening or wall shall obscure vision or interfere with safe site lines at street and/or alley intersections.
- (2) Side or Rear Yard  
Unless specifically permitted in this Ordinance for screening or security purposes, no fence or wall, shall be erected or altered in any side or rear yard to exceed a height of seven (7) feet.
- (3) Industrial Districts  
Fence height restrictions do not apply in the I-G or I-L district unless:
  - (a) The lot abuts a residential or commercial district; or
  - (b) The fence height and location adversely affect safe site lines at street and/or alley intersections.

### **D. Maintenance**

All fences and walls shall be maintained in good condition so as not to create a hazard, public nuisance, or blight in the surrounding neighborhood. Chipped paint, missing fence pieces, leaning or fallen portions of a fence or wall, or other forms of deterioration shall be immediately repaired or replaced.

## SECTION 516 DUMPSTER ENCLOSURES

Dumpsters or other refuse or recycling containers which serve developments such as, multi-unit residential buildings, institutional, commercial, office, industrial or mixed use establishments shall be enclosed and such enclosures shall comply with the following requirements:

- A. Such enclosures shall be finished with the same materials and colors as the exterior finish of the principal structure or shall be concrete block or similar material.
- B. The enclosure shall be four-sided and constructed with an opaque gate constructed of wood or similar material. Chain link fencing shall not be used for any portion of the enclosure or gate.
- C. Walls of the enclosure shall be a minimum of 6 feet in height.
- D. Interiors and exteriors of enclosures shall be kept clean and free of debris and clutter.

## SECTION 517 LIGHTING

*Purpose:* These provisions are intended to control the use of outdoor, artificial illuminating devices emitting rays into the night sky that have a detrimental effect on the rural atmosphere and astronomical observations and that create glare. It is the intention of this section to:

- Encourage good lighting practices such that lighting systems are designed to conserve energy and money;
- Minimize glare;
- Protect the use and enjoyment of surrounding property; and
- Increase nighttime safety, utility, security, and productivity.

### A. Applicability

#### (1) Generally

- (a) All outdoor, artificial illuminating devices shall be installed in conformance with the provisions of this section.
- (b) This section does not prevent the use of any material or method of installation not specifically addressed. In considering any deviation from the provisions of this section, the Zoning Administrator shall take into consideration any state-of-the-art technology that is consistent with the intent of this section as new lighting technology develops that is useful in reducing light above the horizontal plane.

#### (2) Exceptions

The following types of light fixtures shall be exempt from the provisions of this section:

- (a) Low-intensity residential decorative lighting: Residential decorative lighting including porch lights, low level lawn lights, seasonal light such as for Christmas decorating provided that if any such light is directed toward adjacent residential buildings or nearby land, or creates glare perceptible to persons operating motor vehicles on public ways, the luminaire shall be redirected or its light output controlled as necessary to eliminate such conditions.
- (b) Public street luminaires: Luminaires used for public street illumination may be installed up to the edge of any bordering property.
- (c) Emergency lighting: All temporary emergency lighting needed by the police, the fire departments, or other emergency services, as well as all vehicular luminaires, shall be exempt from the requirements of this section.
- (d) Nonconforming fixtures: All outdoor light fixtures legally installed prior to the adoption of this ordinance may remain unchanged, except that any replacement of the subject light fixtures shall be done in compliance with this article.
- (e) Neon lighting

- (f) Flag lighting: Luminaires used for the illumination of the flag of the United States of America shall be exempt from the requirements of this section.

**B. Shielding and Filtration**

- (1) All nonexempt outdoor lighting fixtures shall be hooded and/or louvered to provide a glare free area beyond the property line and beyond any public right-of-way line. Direct or directly reflected light shall be confined to the lot from which it originates. Lighting plans shall be designed so as to avoid the reflection of artificial lighting from rooftops.
- (2) All lighting fixtures shall have one hundred percent (100%) full cut-off and shall not emit any direct light above a horizontal plane through the lowest direct light emitting part of the luminaire, as may be certified by a photometric test. The intensity of light at any angle above a cutoff of seventy five (75) degrees shall be less than ten percent (10%) of the peak candela for the luminaire.
- (3) Light source locations shall be chosen to minimize the hazards of glare.
- (4) All poles or standards used to support outdoor lighting fixtures shall be anodized or otherwise coated to minimize glare from the light source.

**C. Illumination**

**(1) Generally**

Illumination levels within a site shall ensure that a site is adequately, but not excessively, lit at night. Where feasible, average lighting values of illuminated areas ranging from 0.5 to 1.5 foot candle are recommended. In order to ensure visibility, safety, and security, without unnecessarily contributing to light pollution and limiting enjoyment of the night sky, the following illumination standards shall apply.

**(2) Illumination Levels**

- (a) Average Illumination Levels. Average illumination levels of the illuminated area shall not exceed the levels set forth in Table 5-7 for any use permitted by this section.

Table 5-7: Average Illumination Standards

Area/Activity	Foot Candles
Main Parking Area	3.0
Peripheral Parking Area	2.0
Main Drive Areas	5.0
Directly below lighting fixture	20.0

- (b) Illumination at Property Line. Illumination levels at the property line shall not exceed the levels set forth in Table 5-8 for any use permitted by this section. The maximum illumination shall be measured at grade at the property line of the site.

Table 5-8: Illumination Standards at Property Line

Area/Activity	Foot Candles
<b>Residential Zoning Districts</b>	
Adjoining residential zoning district	0.2
Adjoining nonresidential zoning district	1.0
<b>Nonresidential Zoning Districts</b>	
Adjoining another nonresidential zoning district along an arterial	2.0
Adjoining another nonresidential zoning district along collector street	1.2
Adjoining another nonresidential zoning district along local street	1.0
Adjoining another nonresidential zoning district along property line	1.0
Adjoining residential zoning district along arterial	1.0
Adjoining residential zoning district along collector street	0.6
Adjoining residential zoning district along local street	0.4
Adjoining residential zoning district along property line	0.2
<b>Outdoor Events</b>	
Adjoining or within 1,000 feet of residential zoning district	10

- (c) Exceptions to Average Illumination Levels. Automobile dealerships may be permitted a maximum average illumination level of ten (10) foot candles for paved display areas only. Gas stations may be permitted a maximum illumination level of ten (10) foot candles under a pump island canopy only, provided that all light fixtures under such canopy shall be fully recessed into the canopy structure or otherwise fully shielded.

**D. Color Temperature**

Color temperature is measured in Kelvin (K) temperature. In order to minimize negative impacts on circadian rhythms, melatonin production in humans and other animals, and astronomical observation, all proposed lamps shall emit light measuring 3,500 K or warmer (between 0 K and 3,500 K) on the Kelvin scale.

**E. Prohibitions**

**(1) Mercury-Vapor Fixtures and Lamps**

The installation of any mercury-vapor fixture or lamp for use as outdoor lighting is prohibited.

**(2) Metal Halide Fixtures and Lamps**

The installation of any metal-halide fixture or lamp for use as outdoor lighting is prohibited except as follows:

- (a) For outdoor recreation area and amusement area lighting, provided such are mounted at a sufficient height and are properly equipped with baffling and glare guards to meet the requirements of this section; and
- (b) For automobile and similar outdoor sales areas where a high level of color rendition is essential to the activity being conducted.

**(3) Laser Source Light**

The use of laser source light or any similar high-intensity light is prohibited.

**(4) Searchlights**

The operation of searchlights is prohibited.

**(5) Certain Other Fixtures and Lamps**

The installation of any outdoor lighting fixture or lamp is prohibited unless it complies with the shielding and illumination standards (§ 517.B. Shielding and Filtration and § 517.C. Illumination) of this article.

**(6) Recreational Facilities**

No outdoor recreational facility, public or private, shall be illuminated after 11:00 PM, unless otherwise permitted pursuant to a special use permit, except to conclude specific recreational or sporting events or any other activity conducted at a ball park, outdoor amphitheater, arena, or similar facility in progress prior to 11:00 PM.

**(7) Outdoor Building or Landscaping Illumination**

The unshielded outdoor illumination of any building, landscaping, signing, or other purpose is prohibited, except with incandescent fixtures of one hundred and fifty (150) watts or less, or low-pressure sodium fixtures.

**F. Pole Height**

Unless otherwise permitted by special use permit, the maximum height of any pole-mounted lighting fixture or lamp shall not exceed the maximum permitted height of the zoning district in which the fixture or lamp is located.

**SECTION 521 STREET DESIGN AND TRANSPORTATION**

*Purpose:* These regulations are designed to:

- Ensure that the design of streets conforms to the recommendations of the master plan;
- Provide for the safety of both vehicular and pedestrian traffic;
- Provide for livable residential and commercial environments;
- Provide economy of land use, construction, and maintenance;
- Provide safe and efficient access to property;
- Increase connectivity; and
- Reduce total impervious surface and associated stormwater runoff.

**A. Applicability**

This section applies to any application for development approval required by this ordinance or any request to construct, connect, expand or extend a private street.

**B. General Requirements**

All private, and to the extent possible, public roads or streets in the Township shall comply with the standards of this section. No parcels or lots shall be created by land divisions, subdivisions or condominium subdivisions unless street access is provided for in accordance with this ordinance.

**C. Location and Arrangement – Conformity to Master Plan**

The proposed street configuration shall conform to the various elements of the master plan and shall be considered in relation to the existing and planned major thoroughfares and collector streets, and such street configuration shall be placed in the location and with the width indicated on such plan.

**D. Street Names**

Road or street names shall not duplicate any existing road or street name in the county, except where a new road or street is a continuation of an existing street. Road or street names that may be spelled differently but sound the same shall also be avoided. Road or street names shall be approved by Grand Traverse County and the Garfield Township Board, when applicable..

**E. Private Streets**

Private streets are permitted in accordance with this Section and Table 5-10, below.

**Table 5-10  
Design Standards for Private Easements and Pavement**

Property Development Type	Minimum Width of Right-of-Way or Easement	Minimum Street Surface Width	Surface Type (See § 521.F)
<b>RESIDENTIAL ROADS</b>			
Private Streets serving two or fewer parcels	30'	12'	Gravel / Paved
Private Streets serving three to five parcels	48'	20'	Gravel / Paved
Private Streets serving more than five parcels	66'	24'	Paved
<b>COMMERCIAL &amp; INDUSTRIAL DEVELOPMENTS</b>			
Private street serving one parcel	45'	20'	Paved
Privates Street serving more than one parcel	66'	24'	Paved

**F. Private Streets – Additional Requirements**

**(1) Construction and Design Standards**

All public and private streets (including gravel only) shall conform to the required construction and design standards for streets, roads and intersections identified by the Design Guidelines – AASHTO Interim Structural Pavement Design Procedure Adopted for All Season County Roads, adopted by the Grand Traverse County Road Commission except as otherwise provided in Table 5-10, Dimensional Standards for Easements and Pavement.

Minor changes to the construction and design standards may be permitted by the Planning Director or Planning Commission following Township engineer review and provided:



- (a) The changes do not compromise the safety of the road or its users.
- (b) The changes do not modify the minimum paved or gravel width.
- (c) The changes do not allow an increased intensity in use without improvements to the road.

**(2) Certification**

Upon completion of the construction of any street servicing three (3) or more parcels, and prior to the issuance of a land use permit for construction on any parcel accessed from the street, the Zoning Administrator shall be provided with a written certification, signed and sealed by a professional engineer, certifying that the private streets were designed, constructed and installed as required by this section and meet all the required standards. For the purpose of this Ordinance, pavement thickness and layering shall be installed to be considered complete.

**(3) Private Street Maintenance Agreement**

Continued maintenance of private streets shall be the responsibility of the property owner(s) served by the private street. Prior to the issuance of any land use permit for parcels or lots abutting a private street, said property owner(s) shall enter into a legally binding Private Street Maintenance Agreement. The Agreement shall include, but not be limited to the following:

- (a) Majority vote rules regarding street maintenance and improvement decisions.
- (b) The owner of each parcel will be responsible for payment of the share of costs apportioned and assessed to his or her parcel.
- (c) The owners shall have standing and the right to commence legal or equitable action against a delinquent parcel owner or parcel owners to foreclose a lien or otherwise collect the sums owed.
- (d) The Agreement shall be recorded and shall run with the land and bind and benefit the parcels, and the owners thereof, in perpetuity.
- (e) The owner or owners of the land served by the street shall provide for the requirement to grade, drain, and otherwise maintain the private street including the street name sign, and emergency service access, in accordance with public agency requirements.
- (f) A statement that the owners have not asked the Grand Traverse County Road Commission or Michigan Department of Transportation to accept the street as a public street. As such, the street will be private, and the Road Commission or Department of Transportation will have no obligation to maintain the street in any manner.
- (g) A statement that the Township may intervene to repair or maintain the street if the owners fail to do so, and then assess the owners for the cost of doing so. It should state further that if the Township exercises discretion to intervene, that there is, nevertheless, no further obligation to maintain or repair the street on the part of the Township.
- (h) A statement that the owners will hold the Township harmless from liability and indemnify the Township from liability associated with any repair or maintenance or approval of the private street by the Township.
- (i) The Easement and Street Maintenance Agreement may be reviewed and approved by the Township Attorney, at the Township's discretion, for compliance with the Township regulations. Following approval of the Township Attorney, when required, the Agreement shall be recorded with the Grand Traverse County Register of Deeds before issuance of a land use permit.
- (j) The Agreement shall be recorded as part of the Master Deed of a condominium project and as a general deed restriction to be recorded against subdivision parcels and metes and bounds parcels created by a land division.

**(4) Development on Existing Private Streets**

- (a) Existing parcels and lots serviced by a private street may be developed in compliance with the use and dimensional standards of this ordinance. The requirements of §521.G Connectivity shall apply to any extension of an existing private street.
- (b) No parcels or lots shall be created by land divisions, subdivisions or condominium subdivisions on an existing street unless that street meets all standards of this ordinance.

**G. Connectivity**

*Purpose:* The Township finds that discontinuous street systems are inefficient and that channeling traffic onto relatively few points of the transportation network causes undue congestion. A well-connected street network spreads traffic efficiently, provides greater opportunities for access by service and emergency vehicles, and furthers pedestrian mobility by increasing the number of destinations that can be reached by walking. Accordingly, this section provides for and promotes both external and internal connectivity.

The Township acknowledges that there is a market for cul-de-sacs and streets with few connections. This section is intended to preserve the opportunity to provide cul-de-sacs while maintaining the integrity of the network as a whole.

**(1) Connectivity of Internal Streets**

The streets within any proposed subdivision shall provide for a continuous circuit of travel and connection to the surrounding street network. Cul-de-sacs may be permitted where they do not interfere with this objective, or where physical site conditions prevent through connections, but shall not be permitted where it is reasonable to provide interconnectivity to adjacent parcels and developments.

**(2) Projecting Streets**

Where abutting areas are not subdivided, the arrangement of streets in a development shall connect the streets to the unsubdivided areas. Parcels shall be arranged to allow the opening of future streets and logical further development patterns while providing a transition sufficient to ensure safe and efficient traffic flow. Physical construction of the projecting street to the property line shall be completed concurrent with construction of remaining streets within the development. This section is not intended to require local streets to project into floodplains, bluffs, or other natural features or existing development that has not made accommodations for connection.

**(3) Reserve Strips Prohibited**

There shall be no reserve strips controlling access to land dedicated or intended to be dedicated to street use.

**(4) Dead-end Streets**

Dead-end streets are generally discouraged. Only where a cul-de-sac cannot reasonably be constructed due to topography, spatial limitations or other physical characteristics may a dead end street be permitted. Stubs intended to permit future expansion of a street network shall not be considered dead end streets for the purposes of this ordinance.

**(5) Secondary Subdivision Access**

Where a single-family residential subdivision exceeds thirty (30) units, a secondary access may be required by the International Fire Code or Garfield Township reviewing authority.

**(6) Cross Access**

Where necessary to ensure desired vehicular or pedestrian access over private property, the approval authority may require the recording of a cross-access easement.

**SECTION 522 PEDESTRIAN CIRCULATION and NON-MOTORIZED TRANSPORTATION PLAN**

**A. Non-Motorized Pathways**

Public pathways shall be constructed for all new development, re-developments, and amendments to previously approved site development plans, including substantial additions or improvements to existing buildings with a construction cost of twenty thousand dollars (\$20,000.00) or more within a twelve month period.

- (1) Non-motorized pathways may be constructed within the public street right-of-way or upon private property subject to an appropriate public access easement being recorded. All reasonable effort shall be made to avoid cutting trees when placing the pathway.
- (2) The type of pathway required shall be determined through the adopted Garfield Township Non Motorized Plan. Construction of non-motorized pathways not noted within the Non Motorized Plan may be required when determined by the reviewing authority to be necessary to provide reasonable public access for pedestrian traffic.
- (3) All sidewalks shall be constructed of concrete, measuring six (6) feet wide on arterial roads and principal collector roads as identified in the Master Plan. All other sidewalks shall be constructed five (5) feet wide.
- (4) All bike paths shall be constructed of asphalt or other appropriate permanent surface and measure ten (10) feet wide.
- (5) The Township engineer shall review and approve proposed construction materials and design of all pathways.
- (6) Within Township Sections 4, 9, 13, 14, 15, 16, 21, 22, 23, and 24: The Township Engineer and Planning Director may modify a requirement for a non-motorized pathway, in whole or in part, if, in their mutual opinion, unfavorable physical conditions exist. However, the requirement of pathway construction may not be waived entirely. This decision shall be appealable to the Planning Commission. If the Township Engineer and Planning Director are not in agreement, the Planning Commission shall make the determination to modify a pathway requirement.
- (7) Within all other Township Sections not identified by § 522.A.6 immediately above, the Township Engineer and Planning Director may waive or modify a requirement for a non-motorized pathway, in whole or in part, if, in their mutual opinion, unfavorable physical conditions exist or when construction will serve not provide a broad public benefit. This decision shall be appealable to the Planning Commission. If the Township Engineer and Planning Director are not in agreement, the Planning Commission shall make the determination to waive or modify a pathway requirement.
- (8) Where non-motorized pathways exist, the Township Building Official shall make a determination on the condition of such path. Any unsafe, defective, or non-conforming path shall be required to be repaired and/or reconstructed to comply with this section.

**B. Internal Circulation**

For safety purposes, sidewalks shall be constructed within the interior of the development to link buildings with other destinations, such as, but not limited to, parking, adjoining streets, mailboxes, trash disposal, adjoining sidewalks or greenways, and on-site amenities, such as recreation areas. Sidewalks shall also be provided adjacent to all public streets that provide access to the development.

### C. Bicycle Parking Areas

#### (1) Required

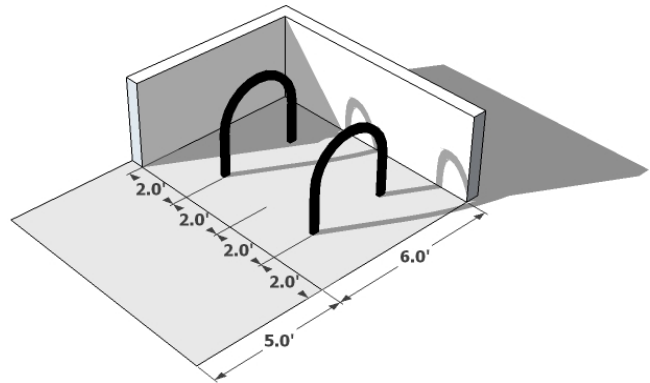
Whenever off-street parking is required, a minimum of two bicycle parking spaces are required. For parking areas with greater than twenty-five (25) motor vehicle spaces, bicycle parking shall be provided on a basis of two spaces per twenty-five motor vehicle parking spaces. For the purposes of this requirement, any fraction shall be rounded up or down to the nearest whole number.

#### (2) Location Requirements

Bicycle parking facilities shall be located in close proximity to main building entrances and in a location that is visible, well-lit, and easily accessible. The placement of bicycle racks shall not interfere with any non-motorized way, entrance, or ADA required ramps.

#### (3) Design Requirements

All racks shall be surrounded by a clear space at least two-feet wide on either side of each rack, six-feet long with a five-foot access aisle. A physical barrier, designed to prevent motor vehicles from driving into bicycle areas, shall be provided between bicycle and motor vehicle parking when bicycle-parking areas are located within or adjacent to a parking lot. All bike racks shall be set in concrete or otherwise permanently secured, and provide two points of bike contact.



## SECTION 523 STORMWATER MANAGEMENT

*Purpose:* The purpose of this section is to provide adequate measures for the retention, detention, and distribution of stormwater in a manner that minimizes the possibility of adverse impacts on both water quantity and water quality during development.

### A. Applicability

This section applies to any application for development approval required by this ordinance. A stormwater management plan shall be provided in compliance with the Garfield Township Storm Water Control Ordinance, as amended or replaced.

### B. Stormwater Detention

#### (1) Level of Service Standard

(a) Stormwater detention shall mitigate peak flow rates to predevelopment or existing development conditions.

#### (2) On-site Detention

On-site detention facilities shall be privately owned and shall be maintained as required by Division 3 Improvements - Operation and Maintenance of this article. A maintenance schedule may be required by the Township prior to approval of construction plans.

**(3) Compliance Required**

No development shall take place excepting in conformity with an approved stormwater detention plan.

**(4) Low-Impact Stormwater Management Design**

Low Impact Design (LID) stormwater management techniques are a set of small-scale stormwater management practices which mimic and work with nature to reduce water runoff and pollutants and provide a natural open space. By incorporating LID practices, the amount of site development area necessary to be dedicated to a traditional stormwater basin can often be decreased substantially. For example, required landscaping areas may also function as bio-swales or retention basins. The use of low-impact stormwater management design techniques may be required, especially in areas adjacent to environmentally sensitive areas or in circumstances where water is proposed to be redirected into environmentally sensitive areas.

**(5) Multiuse Facilities**

The use of multiuse detention facilities to alleviate existing flooding problems, enhance and provide amenities for older neighborhoods, and support the revitalization of economically depressed areas in public and private redevelopment initiatives may be required. Multiuse facilities are stormwater management facilities that provide stormwater management functions and other benefits, such as water quality improvement, water recharge, open space, recreation, or habitat. Such facilities shall not increase the rate or volume of erosion resulting from the use of a facility without multiple uses.

**(6) Pre-treatment Facilities**

Where stormwater will be directed to municipal storm sewer systems, the use of pre-treatment structures such as oil-water separators may be required.

**SECTION 524 SANITATION REQUIREMENTS**

No structure shall be erected, altered or moved upon a lot or premise and used in whole or in part for a dwelling, business, industrial or recreational purpose unless compliance shall be had with all provisions of the Environmental Health Regulations for Grand Traverse County, as the same may be amended from time to time. Violation of any provision of those regulations shall constitute a violation of this ordinance.

**SECTION 525 GROUNDWATER PROTECTION STANDARDS**

**A. Applicability**

These provisions shall apply to all non-residential uses that are required to proceed through the Site Plan Review provisions of Section 424 which use, store or generate hazardous substances and polluting materials in quantities greater than 100 kilograms per month (equal to about 25 gallons or 220 pounds).

**B. Site Plan Review Standards For Groundwater Protection**

The following ground water protection standards shall apply to all site plans subject to this subsection:

- (1) Sites at which hazardous substances and polluting materials are stored, used or generated shall be designed to prevent spills and discharges to the air, surface of the ground, groundwater, lakes, streams, rivers or wetlands.
- (2) Secondary containment for aboveground areas where hazardous substances and polluting materials are stored or used shall be provided. Secondary containment shall be sufficient to store

the substance for the maximum anticipated period of time necessary for the recovery of any released substance.

- (3) General purpose floor drains shall be allowed only if they are authorized to be connected to a public sewer system, an on-site holding tank, or a system authorized through a state groundwater discharge permit.
- (4) State and federal agency requirements for storage, spill prevention, record keeping, emergency response, transport and disposal of hazardous substances and polluting materials shall be met. No discharges to groundwater, including direct and indirect discharges, shall be allowed without required permits and approvals.

## **SECTION 530 GREENSPACE AREAS, GENERALLY**

*Purpose:* The purpose of greenspace is to promote and protect the public health, safety, and general welfare by preserving and improving the environmental conditions created by the built environment, and to accomplish the following:

- Quality of Life. Protect and enhance property values and quality of life through the buffering of incompatible uses and enhancement of the appearance and visual quality of the landscape;
- Preserve the Regional Landscape. Retain and promote naturally occurring vegetation and natural species diversity, limit non-native vegetation, minimize areas of site disturbance, and respect topography, viewsheds, and natural features through appropriate site design. Preserving existing vegetation and incorporating native species into new landscape elements can minimize the visual and physical impact of buildings, drives, and parking areas;
- Landscape Areas. Provide landscaped areas within parking lots to provide shade and visual relief, and to buffer and screen adjacent properties from the impact of noise, lights, and glare; and
- Energy Consumption. Decrease the amount of energy consumption required for heating, cooling, and landscaping irrigation and maintenance.

### **A. Applicability**

Greenspace areas include § 531 Landscaping and Buffering, § 532 Parking Area Landscaping, § 533 Site Grading and Steep Slopes, and § 534 Wetlands, Streams, and Water Bodies.

### **B. Exceptions**

This section does not apply to the following situations:

- (1) Agricultural uses which do not include a commercial element such as a winery or brewery;
- (2) The reconstruction of an existing building of which 50 percent or less of the floor area was destroyed or ruined by flooding, fire, wind storm, or act of God. This exemption shall apply only where reconstruction of that building will not result in an increase in building size or paving area of the parking facilities to be provided;
- (3) Interior finish work or remodeling in a portion of a building unless the work results in an increase in the paving area of the parking facilities or in an enlargement of the exterior dimensions of the existing building; and
- (4) Any use, building, or structure for which only a change of use is requested and which requires no structural modifications that increase its volume or scale.

### **C. Expansions**

When a building or parking lot is enlarged, the requirements of greenspace apply on an incremental basis such that landscaping shall be required in the same proportion that the enlarged building area

or off-street parking area has to the existing development (e.g., a 10 percent increase requires 10 percent of the required landscaping).

**D. Interpretation of Terms**

Where necessary to interpret the precise meaning of technical landscaping terms used in this Section, reference shall be made to the *American Standard for Nursery Stock*. In the case of conflict of terms of definitions, this ordinance shall prevail.

**E. Landscape Plan**

Applications subject to this article shall include a landscape plan as part of plan approval.

**F. Plant Material Requirements**

- (1) Plant materials. Prohibited, permitted, and recommended species shall be based on the current publication of the Grand Traverse Regional Invasive Species Network’s *Recommended Planting Guidelines for Garfield Township* (the “ISN Planting Guidelines”). All plant material shall be hardy to the Grand Traverse area, be free of disease and insects, and conform to the American Standard for Nursery Stock of the American Nurserymen.
- (2) Mixture of Species. The landscape plan shall not contain more than twenty five (25) percent of any single plant species, per feature. Species shall be planted in a staggered pattern so as to eliminate widely visible loss resulting from a species-specific disease event. At least seventy (70) percent of new plantings shall be native.
- (3) No artificial plant materials shall be used to satisfy the requirements of this section.
- (4) Plant materials required by this section shall comply with the minimum size requirements of Table 530.F at the time of installation.

**Table 530.F: Minimum Greenspace Planting Specifications**

<b>Landscape Feature</b>	<b>Minimum Plant Sizes</b>
Canopy Trees	2 inch caliper
Evergreens and Conifers	6 feet in height; no caliper requirement
Flowering Trees	1-1/2 inch caliper for single-trunk trees; 6 feet in height for multi-trunk trees
Shrubs	5-gallon

**G. Increases**

The Township Board in the case of a Planned Unit Development application or the Planning Commission in the case of a Special Use Permit application shall have the authority to increase any requirement of this section in whole or in part if justified by appropriate findings that the increase(s) is/are necessary to meet the Purpose of this section.

## **H. Adjustments**

The Planning Director in the case of a site diagram or administrative site plan, or the approval authority in all other cases may waive or adjust any requirement of this section in whole or in part provided that one or more of the following conditions exist upon the site:

- (1) Existing conditions such as topography or vegetation provide an established screen or buffer which is equal to or superior in its ability to meet the Purpose of this Section. For the purposes of this subsection, vegetation requirements may be adjusted either in terms of the quantity of plantings otherwise required or in terms of the physical location of plantings otherwise required.
- (2) Decorative walls or fencing will be provided in lieu of all or some required plantings to provide an equal or superior buffer to meet the Purpose of this Section.
- (3) Natural features such as steep slopes or other topographical features make full compliance impractical or impossible.
- (4) Space limitations on the site or prevailing development patterns in the surrounding neighborhood justify alternative compliance.
- (5) Safety considerations warrant flexibility upon the site.
- (6) No practicable alternative in the placement of a building, structure, street or utility construction, access drives, stormwater management facilities, trails or pathways, or other site improvements is available.
- (7) In the instance of a waiver being requested, a modification request shall only be approved upon a determination that the existing site conditions or developed form of a property are such that the requirements of this section cannot reasonably be completed, that an alternative landscaping plan cannot be reasonably be substituted, and that the requested modification is the minimum modification necessary resulting from such site conditions or developed form.

## **I. Fractional Requirements**

Where any calculation of required plant materials in this ordinance results in a fractional requirement, such requirement shall be rounded up to the next highest whole number.

## **J. Required Vegetation**

All areas not covered by buildings, parking areas, driveways, walkways, pedestrian plazas or other pedestrian-oriented impervious surfaces or water surfaces shall be replanted with ground cover at a minimum. Ground cover may include:

- (1) Maintained lawn area;
- (2) Native wildflowers, vines, grasses, rushes, sedges, or ferns as identified within the ISN Planting Guidelines; or
- (3) Woodchips or rock provided that this type of material does not exceed twenty percent (20%) of the total of any individual landscaped area.

## **K. Existing Vegetation**

Site plans should preserve existing trees greater than three (3) inches in caliper when ever feasible, especially in required landscaping areas. Relocation of existing trees within the site is encouraged. Relocated trees may be credited towards landscaping requirements in accordance with Table 530.L, below.

## **L. Credit for Existing Vegetation**

Existing canopy trees, evergreens, flowering trees, and shrubs shall be protected and incorporated into the site plan wherever feasible. Existing vegetation may be credited as detailed in Table 530.L for



the purpose of calculating landscaping compliance provided that the plants are in healthy growing condition, are at least the minimum size, are the appropriate species, and are located within (or will be relocated to) the required buffer area.

*Table 530.L Landscaping Credit Calculations*

<i>Vegetation Type</i>	<i>Maturation</i>	<i>Landscaping Credit</i>
Canopy Tree	3" or less caliper	1:1
Canopy Tree	3" to 6" caliper	1:2
Canopy Tree	6" to 9" caliper	1:3
Canopy Tree	9" to 12" caliper	1:4
Canopy Tree	Greater than 12" caliper	1:5
Evergreen or Flowering Tree	8' or less in height	1:1
Evergreen or Flowering Tree	8' - 12' in height	1:2
Evergreen or Flowering Tree	12' - 16' or less in height	1:3
Evergreen or Flowering Tree	Greater than 16' in height	1:4
Shrub	Any size	1:1

**M. Vegetation Inventory**

Applications subject to the requirements of this Section shall be accompanied by a vegetation inventory in the form of a field survey, performed by a forester, landscape architect, or other person having similar recognized skills and/or experience. The vegetation inventory shall include the approximate location and extent of existing vegetation, significant tree stands or woodlands, location and size of vegetation proposed to be retained as credit towards greenspace requirements, and identification of any invasive species.

**N. Non-Native Species Removal and Management**

An applicant shall develop a removal and/or management strategies for invasive species that have been identified.

**O. Clustering**

Wherever possible, existing trees should be retained in stands or clusters to increase survival and preserve larger habitat areas. Clustering of new plantings is also acceptable to create viewing windows to a development site.

**P. Irrigation**

All required landscaped areas shall be irrigated with a piped underground system that is suitable for the type of plantings installed. The Director of Planning may also waive irrigation requirements if no additional planting is required to meet this criteria or if a reliable source of water is not reasonably available. Irrigation systems installed in the public right-of-way require an encroachment permit.

**Q. Overhead Power Lines**

Where overhead power lines are present, consideration shall be given to the location and mature height of species. The location of required planting areas may be adjusted to avoid conflict with power lines provided the intent of planting or screening requirement is maintained.

## R. Protection of Vegetation

### (1) *Site Design*

Plant areas must be protected from vehicular traffic through the use of concrete curbs, wheel stops, or other permanent barriers.

Protecting significant trees requires locating buildings, roads, and sidewalks in areas of the site which will minimize tree destruction, as well as establishing Protected Root Zones (i.e. tree root buffer zones) to protect vegetation during road widening, sidewalk construction, and cut-and-fill activities.

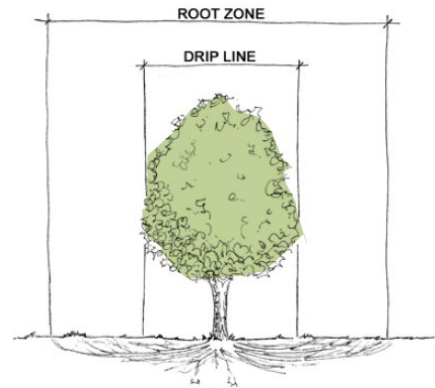
### (2) *Site Construction*

No grading, demolition, trenching, or other activity that may adversely affect trees in this zone may proceed prior to approval and issuance of necessary development approvals by the township. No person shall perform construction work (including the operation or storage of equipment or materials) within the protected root zone of any tree or shrub having its trunk on any public street or public property.

### (3) *Protected Root Zone*

The applicant shall erect protective barriers as follows:

- (a) Protective fencing shall be installed at the edge of the Protective Root Zone around each protected tree or group of protected trees that are designated for protection.
- (b) Barriers shall not be supported by the plants they are protecting but shall be self-supporting.
- (c) Protective barriers shall be a minimum of four (4) feet high and constructed of a durable material that will last until construction is completed.
- (d) Protective barriers shall be in place before construction commences and remain in place until after construction has been completed.



### (4) *Irreparable Damage*

Where the Zoning Administrator determines that irreparable damage has occurred to a tree within a tree protection zone, the tree shall be removed and replaced and protective fencing shall be installed.

## S. Completion of Improvements

Tree stakes, guy wires and tree wrap shall be removed after completion of the initial growing season.

## T. Stabilization

All landscape planting areas shall be stabilized and maintained with seed, sod, ground covers, mulches, or other approved materials to prevent soil erosion and allow rainwater infiltration.

## U. Replacement

When trees designated or planted in accordance with this section die or are removed for any reason, they must be replaced during the next suitable planting season in a manner, quantity, and size approved by the Zoning Administrator.

**SECTION 531 LANDSCAPING AND BUFFERING**

**A. Applicability**

As identified in Table 531.1, Planting Requirements. For proposed uses not identified, the Planning Director shall identify which use, if any, is most similar to the proposed use and interpret the appropriate buffer. Such interpretation may be appealed to the Planning Commission.

**B. Location**

Greenspace areas shall generally be located along the property line but may be adjusted to meet the intent of this section.

**C. Planting Requirements**

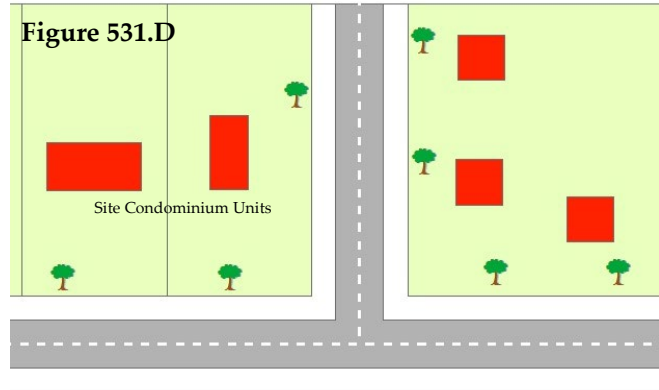
Table 531.1 identifies the landscape requirement type. All landscape plans shall include a table which indicates the quantity of plantings required and the quantity of plantings provided per buffer zone.

**Table 531.1 Planting Requirements**

Table 531.1 Landscape Requirements		Adjacent (Existing) Land Use Type															Streams, Wetlands, or Water Bodies	
		SF Residential	MF Residential	AG-Commercial	Agriculture	Commercial	Office	Industrial	Recreation	Vacant	Major Essential	Institutional	State Highway	Arterial Road	Primary Road	Local Road		Private Road
Primary Land Use Type:	SF Residential	-	-	-	-	-	-	-	-	-	-	-	A	A	A	A	A	See § 534 & § 535
	MF Residential	D	C	C	C	C	C	D	C	C	D	C	D	D	C	C	C	
	AG-Commercial	C	C	B	B	C	C	B	B	B	-	C	D	D	C	C	C	
	Commercial	D	D	B	C	B	C	B	C	C	-	C	D	D	C	C	C	
	Office	C	C	C	B	B	B	B	B	B	-	B	D	D	C	C	B	
	Industrial	D	D	C	B	C	C	B	D	B	-	D	D	D	C	C	C	
	Active Recreation	C	C	C	B	C	C	C	B	B	-	C	C	C	C	C	C	
	Major Essential Service	D	D	D	D	D	D	D	D	D	-	D	D	D	D	D	D	
	Institutional	C	C	C	C	C	C	C	C	C	-	B	D	D	C	C	C	
	Parking Lot	E	E	E	E	E	E	E	E	E	-	E	E	E	E	E	E	
Gas Station	D	D	D	D	D	D	D	D	D	-	D	D	D	D	D	D		

**D. Type "A" buffer.**

- (1) Planting requirement. One street tree per residential unit along each public or private right-of-way that the use is adjacent to.
- (2) Placement. For individual parcels, plats, or site condominiums, the street tree(s) shall be placed on the property itself within ten (10) feet of the right-of-way. For condominium units, the street tree(s) shall be placed within the condominium common area within ten (10) feet of the right-of-way, generally between the dwelling unit and the right-of-way. See Figure 531.D.



**E. Type "B" buffer.**

- (1) Planting requirement. Ground cover as specified in Section 530.J, plus two large trees, one medium or small tree, and four shrubs per one hundred (100) linear feet of greenspace area.
- (2) Minimum width requirement. The Type "B" Buffer area shall be a minimum width of ten (10) feet.

**F. Type "C" buffer.**

- (1) Planting requirement. Ground cover as specified in Section 530.J, plus three large trees, three medium or small trees, one evergreen or coniferous tree per one hundred (100) linear feet of greenspace area.
- (2) Minimum width requirement. The Type "C" Buffer area shall be a minimum width of ten (10) feet.

**G. Type "D" buffer.**

- (1) Planting requirement. Ground cover as specified in Section 530.J, plus four large trees, three medium or small trees, and three evergreen or coniferous trees per one hundred (100) linear feet of greenspace area.
- (2) Minimum width requirement. The Type "D" Buffer area shall be a minimum width of twenty (20) feet.

**H. Type "E" buffer.**

- (1) Planting requirement. Ground cover as specified in Section 530.J, plus two large trees, two medium or small trees, three evergreen or coniferous trees, and thirty (30) shrubs per one hundred (100) linear feet of greenspace area.
- (2) Minimum width requirement. The Type "E" Buffer area shall be a minimum width of ten (10) feet.

## SECTION 532 PARKING AREA LANDSCAPING

### A. Applicability

- (1) All accessory parking areas containing ten (10) or more parking spaces.

### B. Design Requirements

#### (1) No-Build Buffer Strip.

A no-build buffer strip, not less than ten (10) feet in width, shall be required on the perimeter of every parking area, drive, shared drive, alley, or loading area that is not located adjacent to a building. This buffer strip shall be used for landscaping, screening or drainage. Other landscaping and buffering requirements of this Section may be included within this buffer strip. The no-build buffer strip shall be planted in accordance with the requirements of Table 531.1, except in such case that the site characteristics are such that a stone or otherwise non-vegetated ground cover is found to be appropriate by the approval authority in the case of a development application or the Planning Director in all other cases. This requirement is not intended to be in addition to any other plantings required pursuant to § 531 Landscaping and Buffering.

#### (2) Residential Buffer.

All off-street parking areas abutting a residential zoning district shall be provided with an obscuring fence no less than four (4) feet in height. Such fence shall be constructed of materials approved by the Zoning Administrator and shall be durable, weather resistant and easily maintained. Alternatively, a natural vegetative buffer comprised of plants that are capable of providing a full and year-round visual screen within one (1) year of planting may be authorized by the Director of Planning upon written authorization from the abutting residential property owner.

#### (3) Fencing and Screens.

All perimeter fencing shall be located a minimum of 10-feet from the property line and interior to the no-build buffer strip. Where a screen of non-living material is used, at least one (1) shrub or vine shall be planted on the right-of-way side, and the neighboring residential property side if applicable, for each ten (10) lineal feet of screen.

#### (4) Interior Landscaping Areas.

All parking areas with two (2) or more parking aisles shall require interior landscaped areas of at least ten (10) square feet for each parking space. Such interior landscaped areas shall be located within the perimeter of the parking area surface.

- (a) Landscaping, for the purposes of this subsection, shall mean some combination of planted trees, shrubs, vines, ground cover, flowers or lawns. In addition, the combination of design may include rock ground cover not to exceed twenty percent (20%) of the total of any landscaped area, earth mounds, and such structural features as fountains, pools, art works, screens, walls, fences or benches, but such objects alone shall not meet the requirements of this subsection.
- (b) The selected combination of plant materials shall be a harmonious blend of living deciduous and evergreen trees, shrubs and vines so arranged to present an aesthetically pleasing whole.
- (c) Each interior landscape area shall include one (1) or more canopy trees per each 100 square feet of interior landscaping area.

- (d) Significantly mounded islands of interior landscape area, which limit the ability of natural rainwater to reach the vegetation's roots, are discouraged.
- (e) Planting strips shall be a minimum of ten (10) feet in width.
- (f) Trees shall be planted within an island at least ten (10) feet wide by eighteen (18) feet deep.
- (g) Interior landscape areas shall be designed so as to create minimal interference with snow removal.
- (h) Incorporating and consolidating required interior parking lot landscaping areas as a functional element of site design is encouraged and in some instances may be required. Examples may include incorporating stormwater management, walkways, or common area with required interior landscape areas.

### **SECTION 533 SITE GRADING AND STEEP SLOPES REQUIREMENTS**

- A. The general site topography and any natural landforms unique to the property shall be maintained and made part of the development to preserve the natural character. Proper grading and elevation relationships to adjacent properties shall be maintained. All necessary grading shall complement natural landforms.
- B. Cut and fill slopes shall be minimized. Unstable slopes or slopes subject to erosion shall be protected. Slopes shall be re-vegetated using low-maintenance techniques, with perennial grasses, herbaceous plants, and native trees and shrubs.
- C. Grading or removal of vegetative cover shall not be permitted on land with existing steep slopes of twenty (20) percent grade or greater. Areas containing existing steep slopes shall be included as open space and not be a part of a building site.
- D. The most significant slopes and ridgelines shall be maintained in their natural state by clustering development when possible.
- E. Large parcels that will be developed in phases shall be graded in workable units following a scheduled timeline so that construction does not result in large areas left bare and exposed to seasonal runoff.

### **SECTION 534 WETLANDS**

#### **A. Applicability**

This section applies to any wetland which is regulated under Part 303 (Wetlands Protection) of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended, except for the following:

- (1) Any wetland or portion of wetland for which an applicant has obtained a permit from the State of Michigan to fill or modify such wetland, where such permit has not expired or otherwise been revoked, and where such permit has been submitted to the Township as part of a site plan or land use permit application in accordance with the provisions of this Zoning Ordinance.

#### **B. Delineation**

As part of a site plan or land use permit application submitted in accordance with the provisions of this Zoning Ordinance, such application shall be accompanied by a delineation of all wetlands on the site. This delineation shall be conducted by a professional engineer with relevant expertise. This delineation shall be verified by the State of Michigan. Documentation of such verification shall be submitted to the Township.

**C. Wetland Setbacks**

No structure, parking lot area, or snow storage area shall be located within twenty-five (25) feet of such wetland. However, recognized wetlands may be incorporated into a stormwater management strategy provided that the wetland values will not be impaired and provided further that incorporation of the wetland will provide a net ecological benefit to groundwater and surface water.

**SECTION 535 SUPPLEMENTAL SHORELINE REGULATIONS**

*Purpose.* The intent of this Section is to preserve and protect the water quality of the lakes and streams of our region. These regulations seek to balance the protection of the ecosystem while allowing development where appropriate. Methods to accomplish this purpose include, but are not limited to, preservation and/or enhancement of vegetation along lake-stream banks, maintaining lake-stream bank stabilization, preventing sediment from entering the water bodies, allowing for nutrient absorption, providing wildlife habitat and corridors, screening man-made structures, and providing shade, wood or wooden fiber material along the shoreline.

**A. Setbacks from Lakes, Rivers, and Streams**

- (1) Every commercial, industrial or multi-family residential building hereafter erected having frontage on any body of water, with the exception of Silver and Boardman Lakes, and with the exception of on-site storm water ponds and artificial water bodies created as part of the site's landscape treatment, shall be set back at least seventy-five (75) feet from the watermark or normal stream bank. Single family residential uses shall observe a setback of fifty (50) feet. Along those sections of the Boardman River controlled under the Natural River Act, PA 231 of 1970, as amended, setbacks shall be as required by the Act.
- (2) Every building hereafter erected having frontage on Silver and Boardman Lakes shall set back at least fifty (50) feet from the water mark.
- (3) Storm water retention or detention ponds, with the exception of customary release structures including pipe, swales and ditches shall be set back fifty (50) feet from a natural lake or normal stream bank.
- (4) Streets and access drives other than where they intersect lakes or streams and for such a distance as is required to cross a lake or stream shall be set back fifty (50) feet from a watermark or normal stream bank.

**B. Minimum Construction Elevations - Silver Lake**

Within five hundred (500) feet of Silver Lake, the lowest grade for any building construction or accessory building construction shall be elevation 866.N.V.G.D. (NOTE- SILVER LAKE WATER MARK - 862.32 feet above sea level USGSD).

**C. Riparian Vegetative Buffers**

- (1) Required. A vegetated buffer strip shall parallel and extend thirty-five (35) feet inland from all points along the water mark of a lake-stream shoreline or normal stream bank, with the exception of on-site storm water ponds and artificial water bodies created as a part of site landscape treatment which does not flow or overflow into a natural lake-stream. The general standards for the buffer strip are as follows:
  - (a) The buffer strip shall consist of native trees, shrubs and other vegetation. Dead, diseased, unsafe or fallen trees and noxious plants and shrubs, including poison ivy, poison sumac and poison oak, may be removed. Trees and shrubs shall not be removed but may be pruned for a filtered view of the lake-stream, however, clear cutting shall be prohibited.

- (b) Subject to (1) above; ground cover vegetation shall be left in a natural state and shall not be removed. Chemical control and/or fertilization of vegetation shall be prohibited.
- (c) Footpaths, bicycle paths and hiking paths as well as fences, walls and stairways may be constructed under the following conditions:
  - (i) All paths and stairways must be constructed in a location and manner to avoid soil and slope failure.
  - (ii) Construction shall avoid removal of existing trees, shrubs and any other vegetation whenever feasible.
- (2) Reduction. In the event that the application of the vegetated buffer strip standards of this Section, together with any other dimensional restrictions applicable under this Ordinance, results in a legal parcel that cannot be reasonably developed for permitted land uses in the district within which the property is located, the Planning Commission may approve a reduction of the buffer area upon a finding that the proposed site plan provides the maximum possible buffer strip, while permitting a reasonable use of the property.

**D. Filling and Grading within 200 Feet of the Water Mark or Stream Bank**

The following rules shall apply to any filling, grading or any other earth movement within 200 feet of the water mark or normal stream bank of any lake, river, stream, or other body of water to prevent harmful erosion and related sedimentation:

- (1) The smallest amount of bare ground shall be exposed for as short a time as feasible.
- (2) Temporary ground cover such as mulch must be used as soon as possible and permanent cover such as sod be planted.
- (3) Diversions, silting basins, terraces and other methods must be used to trap any sediment.
- (4) Fill must be stabilized according to accepted engineering practices.

***DIVISION 3: IMPROVEMENTS - OPERATION AND MAINTENANCE***

**SECTION 540 PURPOSE**

All improvements required by this article shall be operated and maintained as required by this Division. The instruments creating the dedication, easement, transfer, homeowners' association (HOA), or condominium association, shall be provided to and approved by the Township as part of any development application.

The Township may, but is not obligated to, accept or agree to another form of operation and maintenance of any improvement required by this article provided that such is consistent with the intent of this article.

**SECTION 541 DEDICATION OF LAND OR EASEMENT**

The Township may, but is not required to, accept a dedication of land in the form of fee simple ownership or an easement for public use of any portion or portions of undivided improvement land, the title of which is to remain in ownership by the condominium or HOA, provided that:

- A. Such land is accessible to the residents of the Township;
- B. There is no cost of acquisition other than any costs incidental to the transfer of ownership, such as title insurance; and
- C. The improvement conforms to the applicable standards of this article.

Land dedicated as a natural area, greenway, greenbelt, or trail corridor shall be subject to a duly executed and recorded easement meeting the requirements of and enforceable in accordance with State statute,



which easement shall be unlimited in duration. Prior to the execution of the easement it shall be subject to Township Staff and/or Township Attorney review.

#### **SECTION 542 TRANSFER OF EASEMENT**

Following acceptance of an easement dedicated pursuant to § 541, the Township may transfer perpetual easements to a private, nonprofit organization, among whose purposes it is to promote the principal intent of the easement. Any transfer of such an easement shall be subject to terms and conditions of the transfer which are suitable to the Township.

#### **SECTION 543 HOMEOWNERS ASSOCIATION**

Improvements that are owned in common by all owners of lots or units in a subdivision or condominium are required by this article to be operated and maintained by an HOA established in the master deed and by-laws adopted as a condition of development approval. The master deed and by-laws shall provide that, in the event that the association fails to maintain the improvements according to the standards of this article, the Township may, following reasonable notice and demand that deficiency of operation or maintenance be corrected, enter the land area to repair, operate, or maintain the improvement. The cost of such maintenance shall be the responsibility of the HOA, which shall be required by the master deed and by-laws to levy an assessment to be charged to all owners.

#### **SECTION 544 CONDOMINIUMS**

The undivided improvement and associated facilities may be controlled through the use of permanent condominium agreements, approved by the Township. All undivided improvement land shall be held as a common element. Condominium requests shall be reviewed pursuant to § 429, Condominium Developments.

#### **SECTION 545 EASEMENT TO WATERFRONT**

In the event any land having water frontage is used for beach purposes, it shall have a minimum frontage on the water of not less than fifty (50) feet, measured at the water mark, and shall contain an additional five (5) feet for each family unit having easement or use privileges. Individual docks, boat hoists and related installations shall not exceed one unit per fifty (50) feet of shoreline, measured at the water mark.

### **DIVISION 4: PARKING AND LOADING STANDARDS**

#### **SECTION 550 PURPOSE**

This division establishes off-street parking requirements for all new construction and for the expansion of or changes to existing uses. The purpose of these requirements is to ensure adequate vehicular parking while limiting adverse impacts such as traffic congestion, excessive storm water runoff, and poor pedestrian access and circulation.

#### **SECTION 551 PARKING**

##### **A. General Requirements**

The standards of this section shall apply at the time of construction, enlargement, modification, or change in use of any building, structure, or parking area within any zoning district.

##### **B. Dimensional Requirements**

###### **(1) Parking Spaces**

- (a) Off-street parking spaces shall have a minimum width of nine (9) feet and a maximum width of ten (10) feet, except that parallel parking spaces shall have a minimum width of eight (8) feet and a maximum width of nine (9) feet.
- (b) Off-street parking spaces shall have a minimum stall length of twenty (20) feet except that parallel parking spaces shall have a minimum stall length of twenty-three (23) feet.

**(2) Parking Aisles**

The minimum width of access aisles internal to a parking lot or structure shall be as prescribed in Table 5-46.

**Table 5-46: Minimum Parking Aisle Width (Feet)**

Parking Angle (Degrees)	Parking Aisle Width	
	One-Way Operation	Two-Way Operation
0 (parallel)	12	20
30	12	20
45	14	20
60	16	20
75	18	20
90	20	20

**(3) Compact Vehicles**

Up to twenty (20) percent of the required parking spaces may be designated for use by compact vehicles with minimum dimensions of eight (8) feet in width and sixteen (16) feet in length. Compact vehicle parking spaces shall be individually identified by "compact car parking only" signs, unless an alternative method of identifying such spaces has been approved by the reviewing authority.

**C. Parking Space Requirements**

**(1) Minimum Parking Ratio**

Table 5-47 establishes the minimum numbers of parking spaces required for the use indicated. No part of a loading space required for any building to comply with this article shall be included as part of a required parking space.

**(2) Maximum Parking Ratio**

- (a) Table 5-47 establishes the minimum and maximum number of parking spaces for indicated uses or structures. Unless otherwise approved by the Planning Commission or constructed in accordance with (B) below, if a maximum parking space ratio applies, the number of parking spaces shall not exceed the maximum number permitted.
- (b) The Planning Commission may allow an applicant to exceed the maximum number of spaces permitted provided the additional spaces are constructed of pervious pavement, pavers or similar material acceptable to the Planning Commission. Pervious pavement shall comply with the following conditions:
  - (i) Pervious pavement shall not be located on any slope exceeding ten (10) percent over twenty (20) feet; and
  - (ii) The pervious pavement area shall be maintained as specified for that type of product.

**Table 5-47: Required Parking Standards**

Use	Minimum Parking Required	Maximum Parking Permitted
<b>Residential</b>		
Boarding or Lodging House	2 per dwelling unit plus 1 for each room for boarders	
Dwelling – Apartment, Multiple Family	1.5 per dwelling unit	2.0 per dwelling unit
Dwelling - Single Family, Two Family, Mobile Home	1.5 per dwelling unit	2.0 per dwelling unit
Dwelling unit in a non-residential building	1 per dwelling unit	2.0 per dwelling unit
Housing for the Elderly	1 per dwelling unit	2.0 per dwelling unit
Mobile Home Park	2 per mobile home plus 1 for each employee	
<b>Places of Assembly / Recreation</b>		
Auditoriums, theaters, stadiums or sports arenas & other structures <b>with fixed seats</b> including professional studios, dance halls, drama, and similar uses.	1 for six (6) seats	1 for each three (3) seats
Libraries, post offices	One (1) for each eight hundred (800) square feet of floor area, plus one (1) for every four (4) employees	
Pool and billiard parlors, roller or skating rinks, indoor soccer, skate & bike parks and similar indoor recreational uses and similar uses <b>without fixed seats</b>  Exhibition halls without fixed seats  Professional studios, dance halls, drama, and similar arts without fixed seats	1 for each six (6) persons allowed within the maximum occupancy load as established by fire, building, or health codes.	1 for each three (3) persons allowed within the maximum occupancy load as established by fire, building, or health codes
<b>Medical, Health, Child Care &amp; Institutional Uses</b>		
Child care organizations or centers	1 for each three hundred (300) square feet of floor space	
Churches or temples	1 for each six (6) seats	1 for each three (3) seats in the main unit of worship
Dormitory, Fraternity or Sorority	1 for each two (2) beds	One (1) per bed
Fire Department	1 for each emergency personnel expected on largest shift plus 1 for each 3 seats in meeting/training area.	1 for each two hundred (250) square feet of floor area
Hospitals	1 for each bed	

Medical Clinics: Doctor, Dentist, etc	1 for each two hundred (200) square feet of floor area	1 for each one hundred (150) square feet of floor area
Nursing, convalescent homes	1 for each four (4) beds	1 for each two (2) beds
School, Elementary and Junior High	1 for each teacher, administrator or other employees, in addition to the requirements of the auditorium	
School, Senior High	1 for each teacher, administrator or other employee, and 1 for each ten (10) students, in addition to the requirements of the auditorium	
<b>Business, Commercial &amp; Office Uses</b>		
Automotive sales and service establishments	1 for each four hundred (400) square feet of floor area of sales room	1 for each two hundred (200) square feet of floor area of sales room and one (1) for each auto service stall in the service room
Bar, Tavern, Night Club	1 for each three (3) seats	1 for each 1.5 seats
Brewery	1 for each four (4) seats	1 for each 1.5 seats
Cafe, delicatessen	1 for each two-hundred fifty (250) square feet of floor space	
Bus Passenger Terminal & Station	1 for each employee on the largest working shift plus 1 for each two hundred and fifty (250) square feet of floor area.	
Beauty parlor or barber shop	1 for each beauty and/or barber shop chair	2 for each beauty and/or barber shop chair
Bowling alleys	2 for each alley plus 1 for each employee, plus accessory uses	3 for each alley plus 1 for each employee, plus accessory uses
Financial Institution	1 for each two hundred (200) square feet of floor area	1 for each one hundred (100) square feet of floor area
Furniture and appliance, household equipment, hardware, repair shops, shoe repair, and other similar uses	1 for each eight hundred (800) square feet of floor area	
Gasoline service station and convenience store	1 for each two hundred and fifty (250) square feet of floor area, plus one (1) for each worker on the largest shift	

Gasoline service station and automobile repair garages	1 for each service and repair stall, plus one (1) for each worker on the largest shift	
Golf courses	4 for each golf hole plus one (1) for each two (2) employees	
Golf Courses - Miniature or Par 3"	3 for each one (1) golf hole plus one (1) space for each employee	
Hotel, Motel, Vacation Home Rental	1 for each sleeping unit plus one (1) for each one (1) employee on the largest shift	1.5 for each sleeping unit
Laundromats and coin operated dry cleaners	1 for each two (2) washing or dry cleaning machines	
Mortuaries	1 for each fifty (50) square feet of floor area	
Nursery	1 for each Two hundred and fifty (250) square feet of floor area	
Office	1 for each Two hundred (200) square feet of floor area	1 for each one hundred (150) square feet of floor area
Planned Shopping Center	2.5 per 1,000 square feet Gross Leasable Area (GLA)	5 per 1,000 square feet GLA
Restaurant, Drive-in or Drive-Through only	1 for each employee on the largest working shift plus 1 for each outdoor table	
Restaurants, restaurants with drive-through	1 for each One hundred fifty (150) square feet of floor area	1 for each seventy-five (75) square feet of floor area
Retail stores, except otherwise specified	1 for each two hundred and fifty (250) square feet of floor area	1 for each one hundred fifty (150) sq. feet of floor area
Veterinary Clinic	1 for each Two hundred (200) square feet of floor area	1 for each one hundred (150) sq. feet of floor area
<b>Industrial</b>		
Industrial or manufacturing establishments, research testing laboratories, low volume retail and related accessory offices	5 plus 1 for every one and one-half (1-1/2) employees in the largest working shift	
Warehouses or wholesale establishments, and related accessory offices	5 plus one (1) for every one (1) employee in the largest working shift, or one (1) for each one-thousand (1000) square feet of floor area, whichever is greater	
Warehouse, mini	Three (3) spaces plus one (1) space for each employee.	

**(3) Parking for Multiple Uses**

Where the application identifies accessory or multiple uses within a structure or multiple structures, the minimum standards shall apply to each use or structure. This does not apply to § 551.C.(4) Shared Parking.

**(4) Shared Parking**

- (a) Parking spaces required under this section may be provided cooperatively for two (2) or more uses in a development or for two (2) or more individual uses, subject to the requirements of this section.
- (b) Developments which contain a mix of uses on the same parcel, as set forth in Table 5-48, may reduce the amount of required parking in accordance with the following methodology:
  - (i) Determine the minimum parking requirements in accordance with Table 5-47 for each land use as if it were a separate use;
  - (ii) Multiply each amount by the corresponding percentages for each of the five (5) time periods set forth in Columns (B) through (F) of Table 5-48;
  - (iii) Calculate the total for each time period; and
  - (iv) Select the total with the highest value as the required minimum number of parking spaces

**Table 5-48: Shared Parking Standards**

(A) Land Use	Weekday		Weekend		(F) Nighttime (Midnight-6 AM)
	(B) Daytime (9 AM-4 PM)	(C) Evening (6 PM- midnight)	(D) Daytime (9 AM-4 PM)	(E) Evenings (6 PM- midnight)	
Office/industrial	100%	10%	19%	5%	5%
Retail	60%	90%	100%	70%	5%
Hotel	75%	100%	75%	100%	75%
Restaurant	50%	100%	100%	100%	10%
Entertainment/commercial	40%	100%	80%	100%	10%

**(5) Fractional Measurements**

When units of measurement determining the number of required off-street parking spaces result in a fractional space, any such fraction equal or greater than one-half shall require a full off-street parking space.

**(6) Uses Not Identified**

The Zoning Administrator shall determine the parking requirement for uses that do not correspond to the categories listed in Table 5-47. In such instances, the applicant shall provide adequate information by which the proposal can be reviewed, which includes but may not necessarily be limited to the following:

- (a) Type of uses;
- (b) Number of employees;
- (c) Building design capacity;
- (d) Square feet of sales area and service area;
- (e) Parking spaces proposed on site;
- (f) Parking spaces provided elsewhere; and
- (g) Hours of operation.

**(7) Accessible Parking Spaces**

Accessible parking spaces shall be provided in accordance with the Michigan Building Code.

**(8) Parking Credit**

**(a) Change of Use in a Commercial District**

Where a change in the use of any building or structure located in a commercial district is proposed, the number of parking spaces required shall be the lesser of the following:

- (i) The requirement of § 551.C.(1) Minimum Parking Ratio through 551.C.(7) Accessible Parking Spaces ; or
- (ii) The sum of the parking spaces located on the parcel immediately prior to the change of use together with the net difference of the requirements between the previous and proposed uses calculated in accordance with § 551.C.(1) Minimum Parking Ratio through 551.C.(7) Accessible Parking Spaces.

**(b) Extension or Additions to a Building or Structure**

The parking requirement for a building or structure proposed to be extended or added to, which prior to the extension or addition was deficient to the parking standards of § 551 Parking, but the use of which is in conformity with the permitted uses of the underlying zoning district, shall be:

- (i) The number of spaces on the lot immediately prior to the extension or addition; together with
- (ii) The number of additional parking spaces required as a result of the extension or addition calculated in accordance with § 551.C.(1) Minimum Parking Ratio through § 551.C.(7) Accessible Parking Spaces.

**(9) Parking Space Deferrals**

(a) A deferral from the requirements of §551.C. Parking Spaces Required may be authorized by the approval authority, subject to such conditions and time limitations as may be established by the approval authority, where an applicant can demonstrate that public health, safety and welfare would not be compromised and that one or more of the following conditions exist:

- (i) The parking requirements of this ordinance are unreasonable for the proposed use based on anticipated parking needs specific to the use.
- (ii) The provision of fewer parking spaces than required by this ordinance is proposed on a temporary basis to determine the actual number of parking spaces required to adequately service a proposed use.
- (iii) The use has legally existed without some or all of the required parking and has not resulted in off-site parking concerns in the surrounding area.
- (iv) Peak parking demands exceed actual day to day requirements and can be adequately provided with a prepared surface waiver granted in compliance with §551.E.(2) Prepared Surface.

(b) Any deferral granted by the approval authority shall be subject to the following conditions:

- (i) Adequate area to provide all parking spaces, including necessary maneuvering aisles and site development requirements, required by this ordinance shall be reserved on site.
- (ii) A parking deferral agreement shall be entered into between the landowner and township specifying the conditions under which the deferred parking may be installed by the landowner or required to be installed by the Township.

## **D. Location of Parking Spaces and Parking Areas**

### **(1) Generally**

- (a) Excluding parking structures, all off-street parking spaces shall be located on the lot occupied by the building, structure or use for which the parking spaces are required except where a lot has both residential and non-residential districts in which case any parking spaces for non-residential use shall not be permitted on any portion of the lot zoned residential.
- (b) Parking structures shall be considered primary uses of a parcel.

### **(2) Residential Uses**

- (a) Off-street parking spaces may be located within a side or rear yard but may not be located within a front yard setback unless otherwise provided in this ordinance.
- (b) For one and two family dwellings, parking may be located within the required front yard setback provided that the space does not intrude within a right-of-way or impede pedestrian pathways, and provided further that the parking is located on a driveway.

### **(3) Other Than Residential Uses**

- (a) Off-street parking spaces shall be either on the same lot or within three hundred (300) feet of the building it is intended to serve, measured from the nearest point of the building to the nearest point of the off-street parking area. Ownership of, or authorization to use, all lots or parcels intended for use as parking by the applicant shall be demonstrated.
- (b) Ingress and egress shall not be across lands zoned for single family residential use.
- (c) The location of each ingress and egress shall be at least twenty-five (25) feet distant from any adjacent property located in any single family residential district.

### **(4) Water Body Setbacks**

Off-street parking spaces and parking areas shall be subject to the water body setback requirements of § 534 and §535.

## **E. Site Development Requirements**

### **(1) Access**

Except for one family and two family dwelling units, all parking spaces shall be provided access by means of a maneuvering lane, parking aisle, alley, or private drive. Backing directly onto a street shall be prohibited.

### **(2) Prepared Surface**

- (a) Except for one and two family dwellings, all parking areas, including parking spaces, parking aisles and maneuvering lanes, shall be surfaced with asphalt, bituminous, concrete, pavers or other similar material that shall provide a durable, smooth and dustless surface. Such areas shall be maintained in good condition free of weeds, dust, trash, and debris.
- (b) A waiver or reduction in standards from the prepared surface requirements of this section may be authorized by the Planning Commission or Director of Planning, on a temporary basis, where an applicant can demonstrate that one or more of the following conditions exist:
  - (i) A proposed parking area is completely shielded from the view of adjacent roadways and properties.
  - (ii) Peak parking demands exceed actual day to day requirements and a portion of the required parking can be adequately provided without the need of asphalt, bituminous, concrete or other similar material surfacing.



- (iii) The use is an agricultural use or seasonal use located in the agricultural district.
- (c) Any waiver or reduction in standards granted by the Planning Commission or Director of Planning may be subject to an agreement being entered into between the landowner and township specifying conditions under which required parking spaces shall be surfaced in compliance with the prepared surface standards of this section.
- (d)

**(3) Grading and Drainage**

- (a) All parking spaces and parking areas shall be graded and drained to dispose of all collected surface water. Parking areas specifically designed to retain runoff as part of an approved storm water retention plan, or to drain towards landscaped swales as part of a low impact design approach, shall be considered compliant with this standard.
- (b) Parking spaces and parking areas shall be constructed so that no surface water shall shed directly into any lake, river, stream or tributary. Any surface water that sheds towards such water bodies shall be treated and/or filtered to remove silt, grease, oil and other matter which would deteriorate the water quality. Minimum treatment shall consist of retention or detention facilities as required by the township.
- (c) The Planning Commission may require applicants to incorporate additional storm water treatment techniques for storm water located near any lake, river, stream or tributary.

**(4) Lighting**

Except for single-family and two-family residential lots, all parking areas containing eight (8) or more parking spaces shall provide adequate lighting throughout the hours when the parking area is in operation. All lighting shall comply with the standards of § 517 Lighting and shall be arranged so that the source of light is concealed from public view and from adjacent residential properties and does not interfere with traffic, and shall be installed so as to be confined within and directed into the parking area only.

**(5) Landscaping**

Parking area landscaping shall be provided in compliance with the specification described in § 532 Parking Area Landscaping.

**(6) Snow Storage**

Whenever a development requiring off street parking has parking areas containing two thousand seven hundred (2,700) square feet or more, provision shall be made for on-site snow storage.

Such snow storage shall:

- (a) Be provided at the ratio of ten (10) square feet per one hundred (100) square feet of parking area.
- (b) Be located so as to prevent damage to landscaping required by this ordinance.
- (c) Not occupy required parking spaces or areas that would interfere with the clear visibility of traffic within the site or on adjacent streets.
- (d) Not be located within twenty-five (25) feet of a wetland regulated under Section 534 of this Zoning Ordinance, per Section 534.C.
- (e) Not be located within any required riparian vegetative buffer, per Section 535.C.

**F. Use of Parking Areas and Spaces**

No required parking space or parking area shall be used for commercial repair work or the servicing of vehicles, for display or storage purposes, for the permanent parking of any vehicle, for parking trailers or for the location of any sign or light standard.

**G. Bicycle Parking**

Bicycle parking shall be provided in compliance with § 522 Pedestrian Circulation and Non-Motorized Transportation.

**SECTION 552 LOADING**

**A. General Requirements**

- (1) Truck loading facilities are required in all zones for structures containing uses devoted to businesses, industry, manufacturing, storage, warehousing, processing, offices, professional buildings, hotels, multiple-family dwellings, hospitals, airports, railroad terminals, and any buildings of a commercial nature.
- (2) If a structure is enlarged, expanded, or changed, it shall not be used, occupied, or operated unless it has at least the amount of off-street truck loading facilities that would apply if the increment were a separate structure.

**B. Responsibility**

The provision for and maintenance of the off-street truck loading facilities shall be the responsibility of the operator and owner of the land upon which the structure requiring the facilities is located.

**C. Dimensions**

There shall be two sizes of truck loading spaces designated: "large" and "small." Each large space shall have an overhead clearance of at least fourteen (14) feet, shall be at least twelve (12) feet wide, and shall be at least twenty-five (25) feet long, exclusive of access or maneuvering area, platform, and other appurtenances. Each small space shall have an overhead clearance of at least ten (10) feet, shall be at least ten (10) feet wide, and shall be at least twenty (20) feet long, exclusive of access or maneuvering area, platform, and other appurtenances.

**D. Location**

Off-street truck loading facilities shall be located on the same lot on which the structure for which they are provided is located. However, loading facilities that are available under a cooperative arrangement (refer to § 552.E.(5) Combined Facilities of this article) may be located on another site not more than three hundred (300) feet from the structure for which they are provided. Service entrances and service yards shall be located only in the rear or side yard. Service yards shall be screened from adjacent residentially zoned or used property by the installation of a buffer yard, as set forth in the greenspace standards (§ 530 Greenspace Areas, Generally of this article).

**E. Construction and Maintenance**

Off-street truck loading facilities shall be constructed, maintained, and operated in accordance with the specifications described in § 552.E.(1) Drainage and Surfacing through § 552.E.(5) Combined Facilities of this article.

**(1) Drainage and Surfacing**

Off-street truck loading facilities shall be properly graded for drainage; surfaced with concrete, asphaltic concrete, or asphalt; and maintained in good condition free of weeds, dust, trash, and debris.

**(2) Protective Screen Fencing**

Off-street truck loading facilities shall be provided with protective screen fencing or vegetation such that occupants of adjacent structures are not unreasonably disturbed by the movement of vehicles either during the day or at night.

**(3) Lighting**

Lighting facilities shall comply with § 517 Lighting Standards and shall also be so arranged that they neither unreasonably disturb occupants of adjacent residential properties nor interfere with traffic.

**(4) Entrances and Exits**

Off-street truck loading facilities shall be provided with entrances and exits so located as to minimize traffic congestion.

**(5) Combined Facilities**

Requirements for the provision of off-street truck loading facilities with respect to two (2) or more structures may be satisfied by the permanent allocation of the requisite number of spaces for each use in a common truck loading facility. The total number of spaces designated in a common truck loading facility shall be at least the sum of the individual requirements unless the Zoning Administrator determines that a lesser number of spaces will be adequate. In determining the number of revised spaces, the Zoning Administrator shall consider the respective times of usage of the truck loading facilities by the individual users and the character of the merchandise.

**(6) Minimum Required**

The number of required truck loading spaces shall be as provided in Table 5-49. Where a large truck loading space is required, two (2) small truck loading spaces may be provided to satisfy the requirement.

**Table 5-49: Minimum Truck Loading Spaces**

<b>Square Feet of Gross Floor Area in Structure</b>	<b>Required Number of Spaces</b>
2,000 up to and including 12,500	1 small
12,501 up to and including 25,000	2 small
25,001 up to and including 40,000	1 large
40,001 up to and including 100,000	2 large
Each additional 80,000 above 100,000	1 large

**F. Waiver**

The Zoning Administrator is authorized to waive the off-street loading requirements for structures that are required to provide and maintain fewer than five (5) off-street parking spaces, or any other structure if the design and the proposed use of the structure show no need of off-street loading.

## **ARTICLE 6**

### **GENERAL USE REGULATIONS**

#### **SECTION 600 PURPOSE**

This article establishes specific standards and exceptions to standards, for certain uses, structures, and facilities.

The purpose of this article is to provide additional standards for individual uses in order to protect surrounding property values and uses, to provide exceptions for certain uses in districts that will not adversely affect surrounding property owners, and to further protect our natural resources, the public health, safety, and general welfare.

#### **SECTION 609 TEMPORARY SCHOOL FACILITIES**

Temporary school facilities may be approved by the Zoning Board of Appeals provided:

- (1) All temporary structures are adequately served by water and sanitary facilities as approved by the Grand Traverse County Health Department.
- (2) The temporary structure shall meet all setbacks for the zoning district where located.
- (3) A land use permit and building permit is obtained prior to placing a structure on the property.
- (4) The temporary permit may be approved for up to a three (3) year period with the ability to be extended upon Zoning Board of Appeal approval. In no instance shall the temporary structure be approved for greater than five (5) years.

#### **SECTION 610 USE OF STRUCTURE FOR TEMPORARY DWELLING**

No structure shall be used for dwelling purposes that does not meet the minimum standards as defined in this Ordinance. No partial structure or other temporary structure, whether of a fixed or portable construction, shall be erected or moved onto a lot and used for any dwelling purposes for any length of time. The Zoning Board of Appeals may approve a temporary dwelling provided:

- (1) The temporary structure is for living while constructing a new dwelling or repairing a dwelling damaged by wind, fire, or other natural disasters.
- (2) The temporary structure is adequately served by water and sanitary facilities as approved by the Grand Traverse County Health Department or applicable agency.
- (3) The temporary structure shall meet all setbacks for the zoning district where it is located.
- (4) A land use permit and building permit is obtained prior to placing temporary structure on property.
- (5) The temporary permit shall be valid for a one (1) year period with the ability to be extended for one (1) additional year period upon Zoning Board of Appeal approval. For an extension of the temporary permit, the Zoning Board of Appeals shall find that there has been meaningful progression towards completion of the permanent structure.

#### **SECTION 611 ACCESSORY USES AND STRUCTURES**

Accessory uses and structures may be established provided the following standards are met:

##### **A. Regulations and Conditions**

- (1) **WITHIN ALL DISTRICTS EXCEPT "R-1," "R-2," "R-R" AND "A" DISTRICTS:** A use may be regarded as accessory if it is incidental or insubstantial in and of itself or in relation to the principal use. The accessory use or structure shall comply with the various development standards of this ordinance such as setbacks, clear vision areas, landscaping, height, lighting,

etc. An accessory use shall not generate any effects on neighboring properties, including, but not limited to, noise, parking, traffic, glare, or dust, greater than or more burdensome than such impacts from the main use on the property.

- (2) WITHIN THE "R-1," "R-2," AND "R-R" DISTRICTS: Accessory buildings may be erected as part of the principal building or may be connected to it by a roofed-over porch, patio, breezeway, or similar structure, or they may be completely detached. If attached to the principal building, an accessory building shall be made structurally a part of it, and shall comply in all respects with the requirements applicable to the principal building.

An accessory building not attached and not made a part of the principal building shall be permitted provided that:

- (a) The structure is located a minimum of three (3) feet from any other separate structure on the same lot as measured from the outermost edge of any horizontal projecting element;
- (b) The structure meets the minimum side yard setback, is not located in any front yard, does not exceed more than twenty-five percent (25%) of a required rear yard, and is located a minimum of 10-feet from the rear yard property line;
- (c) The structure shall not exceed a size equal to the ground floor area of the principal building and shall not exceed one (1) story or eighteen (18) feet in height; and
- (d) The structure may not be placed closer to the side street lot line than the side yard setback of the principal building on a corner lot.

- (3) WITHIN THE "A" AGRICULTURAL DISTRICT:

- i. Lots measuring less than two (2) acres: subject to the standards of Paragraph (2), above.
- ii. Lots of two (2) acres or more: subject to the dimensional standards of § 325 A Agricultural (See Attached Dimensional Standards).

## **SECTION 612 HOME OCCUPATIONS**

Home occupations are permitted within the primary structure of the residence provided the home occupation is incidental to the residential use of the home and provided the following conditions can be met:

### **A. Regulations and Conditions**

- (1) The portion of the home devoted to the home occupation shall not exceed twenty-five percent (25%) of total floor area of one (1) story of the dwelling;
- (2) Home occupations shall not be permitted in an accessory structure;
- (3) No outdoor activities shall be carried on in connection with the use;
- (4) The equivalent of one (1) full time employee may be permitted to assist the owner/occupant;
- (5) The essential character of a lot or structure in terms of use or appearance will not be changed to the slightest degree by the establishment of a home occupation or its activities;
- (6) Noise, glare, fumes, odors, or electrical interference are prohibited;
- (7) Not more than one (1) client, patron, or patient is permitted at any time;
- (8) Deliveries and pick-ups by tractor trailers are prohibited; and
- (9) One (1) wall sign up to 3 sq. ft. identifying the home occupation may be permitted.

## **SECTION 613 OUTDOOR STORAGE**

Unless specifically permitted in this Section, no land in any District shall be used in whole or in part for the storage of unused or discarded equipment or materials, or the storage of unlicensed cars, boats, salvage,

waste and junk outside of properly authorized buildings within said District. For purposes of this section, "outdoor storage" is divided into residential and non-residential districts and uses, as described below.

**A. Regulations and Conditions**

**(1) Commercial Districts or Uses**

- (a) Except as otherwise noted in this ordinance, commercial activities and accessory uses shall be carried on in completely enclosed buildings or screened areas.
- (b) Outdoor storage of inventory is permitted within the side or rear yard provided such inventory is appropriately screened from public view by a fence, wall, landscaping, or combination thereof, and provided further that no storage may occur within a no-build buffer zone or required landscaping area. Also see § 515, Fences and Walls.
- (c) The Zoning Administrator in the case of a site diagram or administrative site plan, or the approval authority in all other cases, may approve designated areas of product display for large inventory items (boats, campers, trailers, snowmobiles, RV's, swing sets, or similar items) or sales of natural vegetation in the front yard or side yard area for commercial uses, if permitted in the district, provided that such display area shall not be in a no-build buffer zone or required landscaping area, and shall be located to avoid interference with parking lots, vehicular maneuvering lanes, sidewalks, and pathways. The Zoning Administrator shall retain the right to forward the review of any such proposed display area to the Planning Commission for their review and approval.

**(2) Industrial Districts or Uses**

- (a) Except as otherwise noted in this ordinance, industrial activities and accessory uses shall be carried on in completely enclosed buildings or screened areas.
- (b) Outdoor storage of inventory is permitted within the side or rear yard provided further that no storage may occur within a no-build buffer zone or required landscaping area.
- (c) The outdoor storage of inventory may be permitted without screening provided the inventory is unused and in new condition, not used as a commercial display or advertising area, and is not visible from regional arterial roads as indicated in the master plan. Outdoor storage not meeting the above requirements, including used or discarded material, shall be effectively screened. Also see § 515, Fences and Walls.

**(3) Prohibited in Commercial and Industrial Districts:**

- (a) The storage of inventory in areas designated for uses such as walking, parking, vehicular travel, green space, landscape buffer, or stormwater and snow retention area.
- (b) The parking of vehicles, trailers, inventory or car ramps for the purpose of advertising or business identification in parking areas or adjacent to any roadway.

**(4) Residential Districts**

- (a) The storage of licensed vehicles, recreational vehicles, and boats is permitted as a reasonable accessory use provided that such vehicle is owned by the resident, is in operable condition, and is kept within the rear yard, side yard, or driveway of the residence.

**(5) Prohibited in Residential and Agricultural Districts:**

- (a) Storage of vehicles, recreational vehicles, or any motor vehicle which is not licensed for use upon the highways of the State of Michigan or is inoperable, except when kept in a completely enclosed building.
- (b) The storage upon any property of building materials unless there is in force a valid building

permit issued by the Charter Township of Garfield.

- (c) The storage or accumulation of junk, trash, scrap materials, rubbish or refuse of any kind including but not limited to unused stoves or other appliances stored in the open, remnants of wood, metal or any other material or other cast-off material of any kind.

## **SECTION 614 HEIGHT EXCEPTIONS**

### **A. Regulations and Conditions**

#### **(1) Structural Appurtenances**

- (a) When a given use is permitted in any District, the following kinds of structural appurtenances may be permitted to exceed the height limitations for authorized uses:
  - (a) Ornamental in purpose, such as church steeples, belfries, cupolas, domes, ornamental towers, and flag poles, and similar appurtenances provided such structural elements do not exceed twenty per cent (20%) of the gross roof area and provided further that each front, side and rear yard minimum is increased one (1) foot for each one (1) foot of additional height above the district maximum.
  - (b) Appurtenances to mechanical or structural functions, such as chimney and smoke stacks, water tanks; elevator and stairwell penthouses, ventilators, bulkheads, fire and hose towers and cooling towers.

#### **(2) Commercial and Industrial Districts**

- (a) In any commercial or industrial district, any principal building may be erected to a height in excess of that specified for the district, provided each front, side and rear yard minimum is increased one (1) foot for each one (1) foot of additional height above the district maximum.
- (b) In those commercial or industrial districts not requiring yard setbacks, any portion of a principal building may be erected to a height in excess of that specified for that particular district, provided that such portion is set back from all street, lot, and required yard lines one (1) foot from each one (1) foot of additional height.

### **B. Agency Review**

Any exception in height permitted by 1 or 2 above shall only be permitted following review and approval by Grand Traverse Metro Emergency Services Authority and the FAA.

## **SECTION 615 LIMITED RESIDENTIAL USES IN COMMERCIAL DISTRICTS**

The purpose of this section is to permit and encourage the incorporation of livable spaces above or within approved commercial businesses.

### **A. Regulations and Conditions**

With the exception of the C-O District, residential units are permitted in any commercial zoning district provided the following standards are met:

- (1) The structure street front facade at street level shall be occupied by non-residential uses.
- (2) The residential use shall be a secondary use to the building.
- (3) The residential unit shall have separate services for water, sewer, electric and gas from the commercial use(s).
- (4) Commercial and residential entrances shall be separated and readily distinguishable.
- (5) Parking for residential units shall be off-street and separate from commercial parking whenever possible.
  - (a) Designated residential parking spaces shall be clearly marked and shall have a minimum of one (1) parking space per unit.

- (6) Building permits shall be obtained prior to construction or occupancy of the residential unit.
- (7) The occupant(s) of the residential units need not own or be employed by the commercial business to meet the intent of this section.

## **SECTION 617 MANUFACTURED HOMES IN RESIDENTIAL DISTRICTS**

It is the purpose of this Section to establish reasonable requirements for manufactured homes located outside of licensed manufactured home parks and in the Agriculture and RR, R-1 and R-2, R-3 residential districts.

### **A. Regulations and Conditions**

- (1) All manufactured homes permitted by this section shall:
  - (a) Meet the requirements of federal and state guidelines related to manufactured homes.
  - (b) Meet the minimum cross sectional structure width of 24 feet at the time of placement.
  - (c) Be located on an approved lot and meet all Health Department, DPW, Soil Erosion and other applicable agency requirements.
  - (d) Remove all towing mechanisms within 10 days of installation and prior to occupancy of the structure. Under no circumstance shall the undercarriage or chassis be exposed.
  - (e) Incorporate a perimeter wall constructed of concrete or conventional building materials to prevent the entrance of rodents, control heat loss and contribute to aesthetic compatibility with surrounding structures.
- (2) Each manufactured dwelling shall be aesthetically compatible in design and appearance with other residences in the vicinity, particularly with regard to foundation treatment, siding and roofing materials, and perimeter walls.
  - (a) The compatibility of design and appearance shall be determined by the Garfield Township Zoning Administrator. The Zoning Administrator shall base his or her decision on the character, design and appearance of residential dwellings in the neighborhood.
- (3) Zoning Standards  
Any manufactured home on an individual lot shall conform to the same building setback standards, side and rear yard requirements, standards for enclosures, structure width, access, vehicle parking, and square-footage standards and requirements that would be applicable to a conventional, single-family residential dwelling on the same lot.
- (4) Foundation  
The dwelling shall be attached to a permanent foundation system in compliance with the following requirements:
  - (a) The foundation shall be excavated and shall have continuous skirting or backfill leaving no uncovered open areas excepting vents and crawl spaces. The foundation shall either not be located above grade or shall include masonry skirting; and
  - (b) Be installed pursuant to the manufacturer setup instruction and shall be secured to the premises by an anchoring system, block foundation, or device complying with the rules and regulations of the Michigan Manufactured Home Commission.
- (5) Orientation  
To the extent possible, manufactured homes that are narrower than twenty (24) feet in width shall be oriented on the lot so that its long axis is parallel to the street.

### **B. Replacement**

Legally existing non-conforming manufactured homes may be replaced when located outside of licensed manufactured home parks in the Residential and Agriculture districts provided the following requirements can be met:



- (1) The existing manufactured home first receives a Demolition Permit from the Garfield Township Building Department for the removal of the existing manufactured home.
  - (a) Failure to comply with (1) above will nullify the right of a property owner to replace the manufactured home and will require any replacement manufactured home to meet the minimum width requirement of the district at the time of replacement.
- (2) Following the approval of a demolition permit, and all applicable land use and building permits, the applicant may replace the manufactured home with another manufactured home that does not meet the minimum width requirement of 24 feet, provided the replacement unit is not less in cross sectional width than the existing unit and, as a consequence of the replacement activity, all other requirements of the Section 617 can be met.
- (3) Manufactured homes subject to replacement under this section shall be replaced within six (6) months from the time of their removal from the property.

### **SECTION 618 TRAFFIC IMPACT REPORTS**

The purpose of the traffic impact report is to identify the impacts on capacity, level of service (LOS), and safety, which are likely to be created by a proposed development. A traffic impact report should identify the improvements needed to:

- (1) Ensure safe ingress to and egress from a site;
- (2) Maintain adequate street capacity on adjacent public streets;
- (3) Ensure safe and reasonable traffic operating conditions on streets and at intersections in the vicinity of a proposed development;
- (4) Avoid creation of or mitigate existing hazardous traffic conditions;
- (5) Minimize the impact of nonresidential traffic on residential neighborhoods in the community; and
- (6) Protect the substantial public investment in the existing street system.

#### **A. Applicability**

A traffic impact report shall be required for any major development, special use permit, or site plan under the following described conditions:

- (1) A proposed rezoning that could generate 150 or more directional trips during the peak hour or at least 1,000 more trips per day than the most intensive use that could be developed under existing zoning;
- (2) A proposed development that will generate 150 or more directional trips during the peak hour or at least 500 trips per day; or
- (3) A proposed development for a 5-acre or larger site; or
- (4) Upon determination by the Director of Planning, or by the Planning Commission, that a report is necessary to determine needed road improvements or to determine that unsafe or hazardous conditions will not be created by the development as proposed.

#### **B. Waiver**

The requirements of this section for a traffic impact report may be waived in whole or in part by the Director of Planning, or by the Planning Commission, upon a determination that such report is not necessary to determine needed road improvements or that no unsafe or hazardous conditions will be created by the development as proposed.

#### **C. Preparation**

The applicant shall be responsible for preparing and submitting a required traffic impact report. The study shall be prepared by either a registered professional engineer (P.E.) or transportation planner with

at least five (5) years of experience preparing traffic impact studies in Michigan. The study shall include a summary of the qualifications and documented experience of the author, specifically describing experience in preparing traffic impact studies in Michigan.

#### D. Contents

A traffic impact report shall contain information addressing the factors listed in subsections (1) through (9) below:

- (1) **Site description:** The traffic impact report shall contain illustrations and narratives that describe the characteristics of the site and adjacent land uses, as well as expected development in the vicinity that will influence future traffic conditions. A description of potential uses and traffic generation to be evaluated shall be provided. A description of the proposed development, including access plans, staging plans, and an indication of land use and intensity, shall be provided.
- (2) **Study area:** The traffic impact report shall identify the geographic area under study and identify the roadway segments, critical intersections, and access points to be analyzed. The focus shall be on intersections and access points adjacent to the site. Roadways or intersections within 1/2 mile of the site, where at least five percent (5%) of the existing peak-hour capacity will be composed of trips generated by the proposed development, shall be included in the analysis.
- (3) **Existing traffic conditions:** The traffic impact report shall contain a summary of the data utilized in the study and an analysis of existing traffic conditions, including:
  - (a) Traffic count and turning movement information, including the source of and date when traffic count information was collected;
  - (b) Correction factors that were used to convert collected traffic data into representative design-hour traffic volumes;
  - (c) Roadway characteristics, including the design configuration of existing or proposed roadways, existing traffic control measures (e.g., speed limits and traffic signals), and existing driveways and turning movement conflicts in the vicinity of the site; and
  - (d) Identification of the existing LOS for roadways and intersections without project development traffic using methods documented in the *Highway Capacity Manual 2000* or comparable accepted methods of evaluation. LOS should be calculated for the weekday peak hour and, in the case of uses generating high levels of weekend traffic, the Saturday peak hour.
- (4) **Horizon year(s) and background traffic growth:** The traffic impact report shall identify the horizon year(s) that were analyzed in the study, the background traffic growth factors for each horizon year, and the method and assumptions used to develop the background traffic growth. Unless otherwise approved by the township, the impact of development shall be analyzed for the year after the development is completed and 10 years after the development is completed.
- (5) **Time periods to be analyzed:** For each defined horizon year, specific time periods are to be analyzed. For most land uses, this time period will be the weekday peak hours. However, certain uses (e.g., major retail centers, schools, or recreational uses) will have characteristic peak hours different than that found for adjacent streets, and these unique peak hours may need to be analyzed to determine factors, such as proper site access and turn lane storage requirements. The Director of Planning shall be consulted for determination of the peak hours to be studied.
- (6) **Trip generation, reduction, and distribution:** The traffic impact report shall summarize the projected peak hour and average daily trip generation for the proposed development and illustrate the projected trip distribution of trips to and from the site, and should identify the basis of the trip generation, reduction, and distribution factors used in the study.
- (7) **Traffic assignment:** The traffic impact report shall identify projected design-hour traffic volumes for roadway segments, intersections, or driveways in the study area, with and without the proposed development, for the horizon year(s) of the study.

- (8) **Impact analysis:** The traffic impact report shall address the impact of traffic volumes of the projected horizon year(s) relative to each of the applicable traffic service standards and shall identify the methodology utilized to evaluate the impact. The weekday peak hour impact shall be evaluated as well as the Saturday peak hour for those uses exhibiting high levels of weekend traffic generation.
- (9) **Mitigation/alternatives:** In situations where the traffic LOS are compromised by the proposed development, or where existing traffic LOS falls below acceptable standards, the traffic impact report shall evaluate each of the following alternatives for maintaining or improving traffic LOS standards by:
  - (a) Identifying where additional rights-of-way are needed to implement mitigation strategies;
  - (b) Identifying suggested phasing of improvements where needed to maintain compliance with traffic service standards; and
  - (c) Identifying the anticipated cost of recommended improvements.

#### **E. Process for the Review and Preparation of a Traffic Impact Report**

This section provides an outline of the steps to be included in the preparation and review of a traffic impact report.

- (1) The Planning Department shall be consulted for assistance in determining whether a traffic impact report needs to be prepared for a proposed development application, and the topics relevant to the study requirements.
- (2) Following initial completion of a traffic impact report, it shall be submitted to the township's traffic engineer for review. Once determined to be technically complete, the township traffic engineer shall forward a recommendation for consideration by the township in the application review process.
- (3) Presentation of the township engineer's recommendation to the Planning Commission and/or Township Board will be included as part of the Planning Department report.
- (4) Negotiations based on the conclusions and findings resulting from the traffic impact report or analysis shall be held with the Township Board. A development agreement, detailing the applicant's responsibilities and the township's responsibilities for implementing identified mitigation measures, shall be prepared following the negotiations for action by both parties.

#### **F. Report Findings**

- (1) If staff finds that the proposed development will not meet appropriate LOS standards, planning staff shall recommend one or more of the following actions by the public or the applicant:
  - (a) Reduce the size, scale, scope, or density of the development to reduce traffic generation;
  - (b) Divide the project into phases and authorize only one phase at a time until traffic capacity is adequate for the next phase of development;
  - (c) Dedicate a right-of-way for street improvements;
  - (d) Construct new streets;
  - (e) Expand the capacity of existing streets;
  - (f) Redesign ingress and egress to the project to reduce traffic conflicts;
  - (g) Alter the use and type of development to reduce peak hour traffic;
  - (h) Reduce background (existing) traffic;
  - (i) Eliminate the potential for additional traffic generation from undeveloped properties in the vicinity of the proposed development;
  - (j) Integrate design components (e.g., pedestrian and bicycle paths or transit improvements) to reduce vehicular trip generation;

- (k) Implement traffic demand management strategies (e.g., carpool or vanpool programs, flex time, staggered work hours, and telecommuting) to reduce vehicular trip generation; or
  - (l) Recommend denial of the application for development for which the traffic study is submitted.
- (2) The Planning Commission may recommend, and the Township Board may adopt, a statement of principle partially or fully exempting a project from meeting the traffic service standards where it finds that the social and/or economic benefits of the project outweigh the adverse impacts of the project. The Township Board may temporarily exempt certain street locations from some or all of the traffic service standards, owing to special circumstances that make it undesirable or unfeasible to provide further capacity improvements at these locations. These special circumstances may include a finding that there would be significant negative fiscal, economic, social, or environmental impact from further construction, or that a significant portion of the traffic is generated by development outside the control of township. However, where these conditions exist, the Township Board will make every effort to design alternate improvements, and development projects affecting these areas may be required to implement traffic demand management programs and other measures to reduce the impact on these locations as much as possible.

## **SECTION 630 SIGNS**

### **A. Regulations and Conditions**

This section establishes standards to regulate the type, number, physical dimensions, and placement of signs in the Township. Regulation of the location, size, placement, and certain features of signs is necessary to enable the public to locate goods, services, and facilities in Garfield Township without difficulty and confusion, to encourage the general attractiveness of the community, and to protect property values therein. Accordingly, it is the intention of this ordinance to establish regulations governing the display of signs which will:

- (1) Promote and protect the public health, safety, comfort, morals, and convenience;
- (2) Enhance the economy and the business and industry of the Township by promoting the reasonable, orderly, and effective display of signs, and thereby encourage increased communication with the public;
- (3) Protect public safety by prohibiting signs that are structurally unsafe or poorly maintained; that cause unsafe traffic conditions through distraction of motorists, confusion with traffic signs, or hindrance of vision; and that impede safe movement of pedestrians or safe ingress and egress from buildings or sites;
- (4) Ensure that the constitutionally guaranteed right of free speech is protected and to allow signs as a means of communication;
- (5) Reduce conflict among signs and light and between public and private environmental information systems; and
- (6) Promote signs which are compatible with their surroundings, are appropriate to the type of activity to which they pertain, and are expressive of the identity of proprietors and other persons displaying signs.

### **B. Applicability**

- (1) It shall hereafter be unlawful for any person to erect, construct, install, place, replace, locate, re-build, modify, maintain a sign or allow a sign to remain on property in the Township except in compliance with this Section.
- (2) The effect of this Section is:
  - (a) To regulate any sign, display, figure, painting, drawing, message, placard, poster, billboard, or other thing, visible from a public or private right-of-way and that is used, or has the effect of

- being used, to advertise, announce, or identify the purpose of any business, establishment, person, entity, product, service or activity;
- (b) To establish a permit system to allow a variety of sign types in commercial and mixed-use business zones and a limited variety of signs in other zones, subject to the standards and the permit procedures of this Ordinance;
  - (c) To allow certain signs that are small, unobtrusive, and incidental to the principal use of the respective lots on which they are located, subject to the requirements of this Section, but without requirement of a permit;
  - (d) To prohibit all signs that are not expressly permitted by this Section; and
  - (e) To provide for enforcement of the provisions of this Section.
- (3) In the event of conflict between the regulations of this Section and those of other local, state, or federal regulations, the more restrictive regulation shall govern.

### **C. Non-conforming Signs**

A legal nonconforming sign may be continued and shall be maintained in good condition, including replacement faces, but it shall not be:

- (1) Expanded, altered or changed from a manual changeable letter sign to electronic changeable copy sign so as to increase the degree of nonconformity of the sign;
- (2) Re-established after its discontinuance for two hundred and seventy-five (275) days;
- (3) Continued in use after cessation or change of the business or activity to which the sign pertains;
- (4) Re-established after damage or destruction if the estimated cost of reconstruction exceeds fifty percent of the appraised replacement cost, as determined by the Zoning Administrator;

### **D. Signs Permitted in RR, R-1, R-2, and R-M Residential Districts**

In the RR, R-1, R-2, and R-M Districts the following signs shall be permitted:

- (1) One (1) non-illuminated sign advertising a home occupation or professional service not to exceed three (3) square feet in area and attached flat against a building wall. This standard shall not apply within the R-3 District.
- (2) One (1) monument sign, not exceeding sixteen (16) square feet in sign face area, which is part of the entrance treatment to a project development, such as platted subdivision, site condominium, multi-family development, or mobile home development. Signs may be illuminated as regulated by Section 630.M.(7) of this ordinance. The sign may be placed upon an architectural entrance feature provided the height of the entrance feature does not exceed six (6) feet and is setback fifteen (15) feet from the property line.

### **E. Signs Permitted in C-L, C-G, and C-H Commercial Districts**

In the C-L, C-G, and C-H Districts the following signs shall be permitted:

- (1) All signs permitted under Section 630.D.(1).
- (2) Freestanding signs. One (1) sign, freestanding, including project development signs, of not more than forty (40) square feet in sign face area indicating the location of a business, or development, physically located on the property PROVIDED that the same is at least 100 feet from any residence or residential district and PROVIDED FURTHER that the same shall be solely for identification of the land use or goods and services sold on the premises, subject to the following conditions:
  - (a) Only one (1) free-standing sign shall be allowed along any major thoroughfare. Lots in excess of 100 feet in width will be allowed 0.4 square feet of additional signage for each one (1) foot of lot width in excess of 100 feet to a maximum of 80 square feet for free-standing signs.

- (i) Lots, parcels, and building sites with frontage on two streets may have a second sign identifying the business provided the signs are not located on the same street and provided further the second sign does not exceed a maximum of 25 square feet.
- (b) Changeable copy (e.g. LED or manual change). Freestanding signs incorporating manual changeable letter, digital static messages, or images that change are permissible, provided the changeable copy does not exceed 20% of the permitted sign area and provided further that the rate of change between two static messages or images is not less than one (1) hour. The change sequence must be accomplished by means of instantaneous re-pixelization and shall be configured to default to a static display in the event of mechanical or electronic failure. Sign luminance shall not be greater than 4,200 candelas per meter squared beginning one hour after sunrise and continuing until one hour before sunset. Sign luminance shall not be greater than 200 candelas per meter squared at all other times. Sign lighting shall meet the requirements of this Ordinance.
- (3) Wall signs for individual establishments. The maximum wall sign area shall be the lesser of 100 square feet or 20% of the wall area to which the sign is attached. More than one sign may be placed on a principal building wall provided that the maximum square footage limitation for the building wall is not exceeded. Wall mounted changeable copy signs are prohibited in all districts.
- (4) Individual tenants within a multi-tenant building. One 40-square foot wall sign per exterior tenant wall. In the instance of a tenant occupying more than one designated tenant unit, the tenant shall be permitted one sign per unit wall provided that no sign exceeds 40-square feet. Tenants occupying corner units shall be permitted an additional 40-square foot sign on the secondary wall. An individual tenant shall not be permitted an individual ground sign. Wall signs shall be located on a primary building wall, and are not permitted on secondary building walls.
- (5) Anchor tenants within a multi-tenant development. In accordance with Section 630.E.(3). A Shopping Center Anchor Tenant includes retail establishments of fifty (50) thousand square feet or more in floor area.
- (6) Shopping center identification. In accordance with Section 630.E.(2). The sign shall identify the commercial center and/or individual tenants within a multi-tenant commercial center. Individual ground signs for tenants are prohibited.

**F. Signs Permitted in C-O Office Commercial Districts:**

In the C-O District the following signs shall be permitted:

- (1) Freestanding signs. One freestanding sign, including project development signs, of not more than forty (40) square feet in sign face area indicating the location of a business, or development, physically located on the property.
- (2) Wall signs. The maximum wall sign area shall be 40 square feet per building.

**G. Signs Permitted in the C-P Planned Shopping Center District and in Planned Developments:**

In the C-P Planned Shopping Center district and in Planned Developments, the following signs shall be permitted:

- (1) Applicability. This section shall apply to all new signs, which shall include the following:
  - (a) Removal and replacement of a sign structure.
  - (b) Removal and replacement of wall sign channel letters.

The following shall not be considered new signs:

- (c) Changing the sign face or the sign copy on a sign within an existing sign structure.
- (d) Repair of an existing sign.

- (2) Signs permitted by right.
- (a) Residential Uses in the C-P Planned Shopping Center district and in Planned Developments.
    - (i) Wall Signs. One (1) sign for a home occupation or professional service; no illumination of signs is permitted; maximum of 3 square feet per sign.
    - (ii) Freestanding Signs. One (1) freestanding monument sign located at each roadway entrance to the development; maximum of 16 square feet per sign; maximum of two (2) signs per roadway frontage. Signs may be illuminated as regulated by Section 630.M.(7) of this Ordinance. The sign may be placed upon an architectural entrance feature provided the height of the entrance feature does not exceed 6 feet and is setback 15 feet from the property line.
  - (b) Office Uses in the C-P Planned Shopping Center district and in Planned Developments.
    - (i) Wall Signs. One (1) sign per building; maximum of 40 square feet per sign.
    - (ii) Freestanding Signs. One (1) freestanding monument sign located at each roadway entrance to the development; maximum of 40 square feet per sign; maximum of two (2) signs per roadway frontage.
  - (c) Commercial Uses in the C-P Planned Shopping Center district and in Planned Developments, and Industrial Uses in Planned Developments.
    - (i) Wall Signs. One (1) sign per exterior storefront. The maximum area per sign shall be the lesser of 100 square feet or 20% of the area of the wall to which the sign is attached. Businesses occupying corner spaces are permitted one (1) sign on the additional exterior wall.
    - (ii) Freestanding Signs. One (1) freestanding monument sign located at each roadway entrance to the development; maximum of 40 square feet per sign; maximum of two (2) signs per roadway frontage. For developments which include more than 10,000 square feet of retail space, one (1) freestanding sign along each roadway frontage is allowed in place of another permitted freestanding sign, according to the following:
      - 10,000 – 25,000 square feet of retail space; maximum of 60 square feet per sign
      - 25,000 – 50,000 square feet of retail space; maximum of 80 square feet per sign
      - More than 50,000 square feet of retail space; maximum of 100 square feet per sign
  - (d) Mixed Uses in the C-P Planned Shopping Center district and in Planned Developments.
    - (i) Wall Signs. The number and size of wall signs shall be based on each type of use included in the development according to the standards of (a) through (c) above.
    - (ii) Freestanding Signs. One (1) sign located at each roadway entrance to the development; maximum of two (2) signs per roadway frontage. The size and type of this sign shall be determined by type of use included in the development with the maximum area permitted by (a) through (c) above.
- (3) Signs subject to Planning Commission approval.
- (a) Internal directional signs with a maximum of 6 square feet per sign. Such signs shall be placed at logical locations to facilitate traffic within the site. The location and quantity of internal directional signs shall be subject to Planning Commission approval and clearly indicated on an overall site plan.
  - (b) The Planning Commission shall have the ability to modify any of the wall sign standards in Section 630.G.(2) provided all the following criteria are met. Any modification of these standards shall be applicable for only the lifespan of the sign in question and shall not be

transferable to any other sign or lot, shall not be considered a variance, and shall not run with the land. The decision of the Planning Commission shall be applicable to only the specific application and shall not be considered to set precedent.

- (i) The proposed sign(s) shall be designed as an integral part of the development and compatible with the overall design.
- (ii) Any proposed sign shall be found by the Planning Commission to be appropriate in scale, bulk, and location relative to the site and shall be found to be compatible with surrounding land uses.
- (iii) The sign does not block the view of other nearby signs to the extent that it would harm the ability of other businesses in the surrounding neighborhood to operate.
- (iv) For a wall sign, the building is set back greater than two hundred (200) feet from the centerline of the nearest roadway, or the wall to which the sign is attached is greater than five hundred (500) square feet, and the requested increase in wall sign area is not more than fifty (50) percent greater than that allowed in Section 630.G.(2).
- (v) There are other unique circumstances or existing conditions on the site which warrant consideration by the Planning Commission.

**(4) Signs prohibited under any circumstances.**

- (a) Prohibited in both the C-P district and in Planned Developments:
  - (i) All signs described in §630.P
  - (ii) Changeable copy signs and Billboard signs.
  - (iii) Signs with exposed neon or other exposed lighting source (excepting "gooseneck" style and shielded downward illumination of non-internally illuminated signs).
- (b) Prohibited in the C-P district:
  - (i) Cabinet signs.

**H. Signs Permitted in I-G and I-L Mixed-Use Industrial Business Districts:**

In the I-G and I-L Districts the following signs shall be permitted:

- (1) All signs as permitted by Section 630.E.

**I. Signs Permitted in A Agricultural District:**

In the A District the following signs shall be permitted:

- (1) All signs as permitted by Section 630.D.
- (2) Freestanding signs. One (1) sign, per parcel, of not more than fifty (50) square feet in face area to advertise the sale of farm products grown or produced on the premises or to indicate the location of a business or use allowed under the standards of the Agricultural Zoning District.

**J. (Reserved)**

**K. (Reserved)**

**L. Billboards**

**(1) Purpose**

- (a) Protect the Township's distinctive community character and natural landscape.
- (b) Protect the Township's scenic resources, scenic roadsides, and view sheds;
- (c) Enhance the economic base associated with tourism and the community's overall economic well-being by protecting the natural, scenic beauty of the Township;



- (d) To foster and enhance the Township's dark sky policy; and
- (e) To satisfy the public need for commercial information disseminated by billboards.
- (2) In light of the findings made by the Township (in connection with the 2002 amendment to these regulations) with respect to the extent and sufficiency in number of billboards and outdoor advertising signs within the Township, and, notwithstanding, anything contained in this Section to the contrary, no permit shall be issued for a billboard or outdoor advertising sign if construction of the billboard or outdoor advertising sign will result in there being more than twenty (20) billboard or outdoor advertising sign structures or forty (40) billboard or outdoor advertising sign faces in the Township. Lawfully constructed non-conforming billboards or outdoor advertising signs shall be counted for purposes of this Section.
- (3) Billboards shall only be located within the I-G and I-L zoning districts. Notwithstanding the provisions of this section, no billboards or outdoor advertising signs shall be permitted in the I-G and I-L zoning districts on any property abutting or within two thousand six hundred forty (2,640) feet of Birmley, Hammond and Hartman Roads.
- (4) Dimensional Requirements, spacing and lighting:
  - (a) No billboard, advertising sign boards, or advertising structures shall be more than two hundred thirty (230) square feet in area or more than thirty (30) feet in height; and PROVIDED FURTHER, the distance between such billboards or signs shall not be less than one thousand four hundred (1,400 feet).
  - (b) Billboard or highway advertising sign luminance shall not be greater than 4,200 candelas per meter squared beginning one hour after sunrise and continuing until one hour before sunset, and greater than 200 candelas per meter squared at all other times. Billboard lighting shall meet the requirements of this Ordinance.
  - (c) Signs with static messages or images that change are permissible, provided the rate of change between two static messages or images is not less than ten (10) seconds. The change sequence must be accomplished by means of instantaneous re-pixelization and shall be configured to default to a static display in the event of mechanical or electronic failure.
- (5) Nonconforming Billboards, due to their location within a zoning district other than the I-G and I-L zoning districts, may not be converted to any form of electronic display, whether static or changeable.
- (6) Billboards shall be subject to the requirements of Section 630.P.

**M. General Sign Standards**

**(1) Placement, Height, Ground Clearance, and Projection**

**(a) Freestanding Signs**

- (i) Placement. Freestanding signs may be located anywhere on a site, subject to the following limitations:
  - a. Setbacks. Sign setbacks shall be measured from all lot lines. All signs, unless otherwise provided for, shall be set back a minimum of ten (10) feet from the front, side, or rear property line.
  - b. Under no circumstances shall any portion of a freestanding sign be located within a public right-of-way.
  - c. The Zoning Administrator may require a sign to be further set back from the right-of-way where necessary to provide clear vision areas for motorists and pedestrians.
  - d. A minimum ten (10) foot horizontal separation between any sign and any overhead utility shall be maintained at all times. Any part of a sign, including cables, guys, etc. shall maintain a minimum clearance of four (4) feet from any electrical conductor, electric light pole, road lamp, traffic light, or other utility pole.

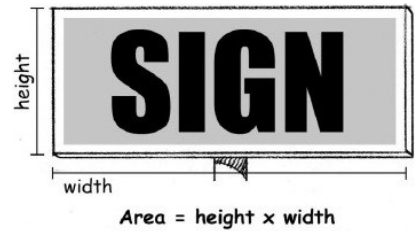
- (ii) Height. The height of any freestanding pylon sign shall not exceed twenty (20) feet. The height of any freestanding monument sign shall not exceed ten (10) feet.
- (iii) Where any portion of a freestanding sign projects over a vehicular driveway or parking area, a minimum ground clearance of fourteen (14) feet shall be maintained. Where any portion of a freestanding sign projects over a public or private sidewalk or pathway, a minimum ground clearance of eight (8) feet shall be maintained.

(b) Wall Signs

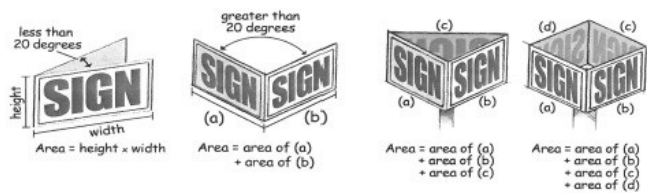
- (i) Placement. Wall signs may be placed on any primary building wall.
- (ii) Height. The height of any wall sign shall not exceed the height of the building. Wall signs may be placed on a primary building wall's parapet provided that the parapet does not exceed a height of six (6) feet above the building's roofline.
- (iii) Projection. A wall sign shall not project from the wall to which it is attached by greater than twelve (12) inches.
- (iv) Ground Clearance. Where any portion of a wall sign projects over a public or private sidewalk or walkway, the bottommost point of the sign structure shall be at least eight (8) feet above said walkway.
- (v) Changeable copy wall signs are prohibited.

(2) Measurement

(a) Area Measurement. The area of a sign shall be measured as the area within a single, straight line square or rectangle which encloses the extreme limits of writing, representation, emblem, logo, or any other figure of similar character, together with any frame or other material or color forming an integral part of the display or used to differentiate the sign from the background against which it is placed, excluding only the pedestal, poles, or other structure necessary to support the sign.



(b) Multiple Faces. The area of a freestanding, ground, or projecting sign that has two (2) or more faces shall be measured by including the area of all sign faces, except if two (2) faces are placed back-to-back,



are of equal size, and are no more than twenty (20) degrees apart at any point, 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 the sign area.

(2) Supporting Structure

The necessary supports, uprights, or monuments on which a sign is placed may not exceed fifty percent (50%) of the permitted square footage of the sign, excluding those portions of the support below street grade.

(3) Materials

Sign materials shall be made of wood, metal, plastics, masonry, or other durable surfaces approved by the Zoning Administrator.

**(4) Free Speech**

Unless otherwise prohibited in this Section, non-commercial copy (that is unrelated to commercial or business endeavors) may be substituted for commercial copy on any lawful structure.

**(5) Illumination**

Illuminated signs shall not create glare or unduly illuminate the surrounding area. The following provisions shall apply to illuminated signs that are permitted elsewhere in this article.

- (a) Light Sources. Signs shall be illuminated only by steady, stationary, shielded light sources using approved electrical devices. Exposed bulbs are prohibited except where neon or LED bulbs are used as signs.
- (b) Direction and Shielding. Lighting fixtures shall be carefully located, aimed and shielded so that light is directed only onto the sign façade. Lighting fixtures shall not be directly visible from or aimed at streets, roads, or properties. To the extent possible, fixtures shall be mounted and directed downward (below the horizontal).
- (c) Back-Lit and Internally-Illuminated Signs. Back-lit and internally-illuminated signs shall not cause excessive glare, and light emitted from such signs shall not encroach onto surrounding properties.
- (d) Motorist Distraction. Sign illumination that could distract motorists or otherwise create a traffic hazard shall be prohibited.
- (e) Adjacent Residential Use. Where a lot is adjacent to a residential use, back-lit and internally illuminated signs are prohibited on any side or rear building face exposed to view from a residential use.
- (f) Underground Wiring. Underground wiring shall be required for all signs that are not attached to a building.

**N. Signs Always Permitted**

The following signs are permitted throughout the Township. Unless otherwise noted, a sign permit is not required; however the sign shall comply with the standards listed below.

- (1) Address Numbers and Street Names.
- (2) Canopy Signs. Up to fifteen (15) square feet in signage per canopy side, located upon drive-through canopy structures for gas stations and financial institutions. A sign permit is required.
- (3) Construction signage identifying a building project including the names of the developer, financier, and the various professionals and contractors involved. Such signage shall be allowed only during the time in which the development is actually under construction and shall not exceed thirty-two (32) square feet in sign face. Construction signs shall be removed before a Certificate of Occupancy is issued for the premise. Such signage shall not be placed closer than ten (10) feet from the edge of the right-of-way and shall not exceed eight (8) feet in height.
- (4) Community Special Event signs placed on the site where the event will be held not more than 5 (5) days in advance of the date on which the event will held.
- (5) Directional Signs. One (1) six (6) square foot internal directional sign which is placed at least 20 (20) feet from a road right-of-way AND two (2) one (1) square foot directional signs which may be placed anywhere on the project site. A sign permit is required.
- (6) Hanging Signs, suspended below a marquee, awning, or canopy, provided that the sign measures less than four (4) square feet and maintains a ground clearance of eight (8) feet between the lowest point of the sign and the grade. One hanging sign shall be permitted per business. A sign permit is required.
- (7) Historical or memorial signs such as "Centennial Farm" plaques and/or other signs representing awards won by a farm unit and/or its proprietors.

- (8) Incidental Signs, not exceeding one (1) square foot in area each, identifying hours of operation, pickup and delivery areas, etc., and limited to a maximum of five (5) signs per site.
- (9) "No Hunting" or "No Trespassing" signs which do not exceed one (1) square foot in area.
- (10) Official Signs. Official signs, including signs for essential services, governmental purposes, public recreation area identification, and utility identification are permitted in all zone districts provided the sign does not exceed forty (40) square feet in area. Such signs shall not be subject to the setback requirements.
- (11) Political Signs. A political sign shall not exceed eight (8) square feet in area, shall be spaced at least twenty (20) feet apart on an individual parcel, may not be erected more than four (4) months prior to an election, and shall be removed within five (5) calendar days following the election.
- (12) Real Estate Signs.
  - (a) For Residential Uses less than one (1) acre, one (1) six (6) square foot real estate sign per parcel.
  - (b) For Residential Uses greater than one (1) acre, and for Non-Residential Uses, one (1) sixteen (16) square foot real estate sign per parcel.
  - (c) All real estate signs shall be placed on premises of property that is for sale or lease, shall not be illuminated, and shall be placed no closer to the street or highway line than fifteen (15) feet.

**O. Temporary Signs for approved Outdoor Sales Events, as follows:**

- (1) Temporary signs advertising special events, grand openings, going out of business, or other temporal events may be permitted provided that they are affixed to and overlay existing permitted signage and do not exceed the square footage of such existing signage, and are in place a maximum of fifteen (15) days in any one hundred eighty (180) day period.
- (2) Banners used as temporary signs for the purpose of a temporary outdoor sale specifically permitted by this Ordinance, provided that:
  - (a) Only one (1) banner per temporary outdoor use shall be permitted unless the event is located on a corner lot, in which case a maximum of two (2) banners shall be permitted.
  - (b) The maximum size of any one (1) banner shall be twenty (20) square feet. Where two (2) banners are permitted, the maximum combined size shall be thirty-two (32) square feet.
  - (c) The banner shall be located not more than five (5) feet from the temporary outdoor use.
  - (d) When affixed to a tent, no banner shall be erected higher than the eave of the tent. A freestanding banner attached to a pole or similar supporting structure shall not exceed a height of ten (10) feet, measured to the top of the banner.
  - (e) No illumination shall be permitted
  - (f) Sign review shall be required and shall be approved only for the specific duration of the temporary outdoor use.

**P. Prohibited Signs**

- (1) Abandoned signs
  - (a) Removal Required. Any sign that advertises, identifies, or pertains to an activity that no longer exists or that no longer refers to a business conducted or product sold on the lot shall be removed within sixty (60) days of written notice. The sign cabinet shall either be removed in its entirety, or the sign face shall be removed, painted a neutral color, or a blank sign face substituted.
  - (b) Extension. Upon petition of the property owner, the Zoning Administrator may grant an extension of the requirement to remove the sign face or sign structure, subject to the owner submitting a statement of intent and a reasonable time line for the re-use of the sign face or sign structure.
- (2) Signs which do not relate to existing businesses or products.
- (3) Off-premise signs as defined herein, except as provided in Section 630.L. Billboards where permitted.

- (4) Signs which are illegal under State laws or regulations and/or applicable local ordinance or regulations.
- (5) Non-Maintained Signs. Signs that are not clean and in good repair.
- (6) Signs not securely affixed to a substantial structure, including signs which are not customary vehicular signage placed on parked vehicles.
- (7) Signs which attempt or appear to attempt to regulate, warn, or direct the movement of traffic or which interfere with or resemble any official traffic sign, signal or device.
- (8) Signs which fail to satisfy applicable standards set forth in this Ordinance.
- (9) Signs which did not first receive a permit.
- (10) Signs, except those established and maintained by Municipal, County, State or Federal governments, located in, projecting into, or overhanging within a public right-of-way or dedicated public easement.
- (11) Signs which revolve, move, or flash, including electronic changeable message boards running animated displays or sequential messaging, (including scrolling and moveable text and video messages), or any combination of the foregoing, except for signs as provided for in Section 630.E. Instant re-pixelization shall not be considered scrolling, moveable text, or video.
- (12) Changeable copy sign, except as provided for in Section 630.E.
- (13) Airborne or inflatable devices or characters, including but not limited to bounce houses, slides or balloons, situated, displayed or tethered in such a manner as to draw attention to a product, business or location.
- (14) Flags, banners, flag banners or pennants used for the purpose of attracting attention or advertising, however, excluding:
  - (a) Official government, trademarked, or otherwise commercially recognizable, corporate, or institutional flags placed on a permanent flagpole;
  - (b) Family flags used as part of the landscape of a legal use;
  - (c) Festival banner flags; and
  - (d) Banners used as temporary signs for the purpose of a temporary outdoor sale permitted by Section 630.O.(2) of this Ordinance.
- (15) Human Signs. Persons dressed in costume and/or carrying/holding signs for the purpose of advertising or otherwise calling attention to a business or product when standing within ten (10) feet of a public road right-of-way.
- (16) Signs which do not meet the dark sky requirements of this Ordinance.
- (17) Parked Vehicle. Any sign affixed to a parked vehicle or trailer which, due to the regular location of the vehicle shows it is being used principally for advertising purposes, rather than for transportation purposes.
- (18) Temporary signs, except as specifically provided in Section 630.O.(1).
- (19) Portable Signs.

**Q. Sign Safety and Maintenance**

- (1) General Design. Signs and sign structures shall be designed and constructed to meet any requirements of the Michigan State Construction Code, as amended, and with all applicable regulations adopted thereunder.
- (2) Maintenance. Every sign, including those specifically exempt from this article, with respect to permits and fees, shall be maintained in good repair and sound structural condition at all times. All signs shall be kept neatly painted, including all metal parts and supports thereof that are not galvanized or constructed of rust resistant metals.

- (3) Safety. All signs must remain safe and secure during the period of use. All parts of the sign, including bolts and cables, shall remain painted and free from corrosion. The Zoning Administrator shall inspect and may order the painting, repair, alteration or removal of a sign which constitutes a hazard to safety, health or public welfare by reason of inadequate maintenance, dilapidation, or obsolescence.

**R. Permits, Application Requirements, and Approval**

The purpose of this Section is to set forth procedures and standards for processing sign permit applications. Except as provided elsewhere in this Article, it shall be unlawful for any person to erect, place, install, convert to electronic, display, alter, or relocate a sign without first obtaining a sign permit or permits. A sign permit shall not be issued if the existing site has signage violations per the regulations of this Article.

- (1) Sign Permit Required. A sign shall not be placed, erected, re-erected, constructed, installed, modified, displayed, relocated, converted to electronic or altered prior to the issuance of a sign permit by the Zoning Administrator, except as provided below:
  - (a) Maintenance and Repairs of Signs. A sign permit shall not be required for the routine maintenance or repair of an existing conforming sign, including repair or replacement of electrical wiring, electrical components, or internal bulbs (excluding electronic changeable copy), but excluding replacement faces or modifications which change the outward appearance, display, size, structure, or cabinet of the sign.
- (2) Application Requirements. An illustrated plan shall be provided with a sign permit application. Such plan shall be rendered at a scale determined by the Administrator to be reasonable and shall include the following elements of the proposed or modified signage:
  - (a) Sign type;
  - (b) Dimensional characteristics, such as height, width, vertical clearances, and face area as measured per Section 630.M.2;
  - (c) Materials, appearance, and lighting of the signage;
  - (d) Relationship to buildings or structure and location on buildings;
  - (e) Setbacks from rights-of-way; and
  - (f) Locations of any existing signage in the subject development or on the subject parcel. The site plan shall also include proposed and existing signage not requiring a permit.
- (3) Upon receipt of an application, the Zoning Administrator shall review the application for completeness. If the application is complete, it shall be processed. If the application is incomplete, the Zoning Administrator shall advise the applicant of additional elements required for consideration by the Township.
- (4) Within ten (10) business days of receiving a complete application, the Zoning Administrator shall review the application for compliance with this Ordinance. If the application is compliant, the Zoning Administrator shall issue a Sign Permit to the applicant. If the application is not in compliance, the Zoning Administrator shall advise the applicant and reference the applicant to sections of this Ordinance that need to be addressed.
- (5) The Zoning Administrator shall retain the right to forward any sign permit applications to the Planning Commission for their review and approval.

- (6) Inspection and Compliance. The Zoning Administrator shall inspect each new or modified sign for which a permit is issued to determine whether the sign is in full compliance with the Sign Permit and this Ordinance. If the construction is not in full compliance with this Ordinance, the Zoning Administrator shall give the applicant notice of the deficiencies and order corrective action.
- (7) Permit Assignment. A sign permit shall be assignable to the successor of a business on the same parcel, except where such assignment would result in a sign that is materially or substantially different in any way to the sign which was permitted, as determined by the Zoning Administrator.
- (8) Sign permit requests require individual applications and review fees at the time of submittal.
- (9) Permit Expiration. All permits are valid for one (1) year from the date of issue.

## **SECTION 640 SEXUALLY ORIENTED BUSINESSES**

### **A. Purpose**

The purpose and intent of this ordinance dealing with the regulation of sexually oriented businesses is to regulate the location and operation of, but not to exclude, sexually oriented businesses within the Township, by preventing the concentration of such uses in close proximity to one another and to minimize the negative secondary effects associated with them by separating such uses from residential, educational and religious uses, as well as other areas of public and private congregation; all within the limits of the Township's authority. This regulation is implemented with the understanding and recognition that there are some uses which, because of their very nature, have serious objectionable operational characteristics which cause deleterious secondary effects upon nearby residential, educational, religious and other similar public and private uses. The implementation of reasonable and uniform regulations is necessary to ensure that negative secondary effects will not contribute to the blighting or downgrading of surrounding areas and will not otherwise be injurious to the health, safety and general welfare of Township residents. The provisions of this Ordinance have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative material, including sexually oriented materials, protected by the First Amendment to the United States Constitution. Similarly, it is neither the intent nor the effect of this Ordinance to restrict or deny access by adults to sexually oriented materials protected by the First Amendment to the United States Constitution, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. Neither is it the intent of this Ordinance to condone or legitimize the distribution of obscene materials, but to regulate land uses associated with such distribution or dissemination in a manner designed, within the limits of the United States Constitution and judicial opinions interpreting its breadth and scope, to ensure that the health, safety and general welfare of the citizens of Garfield Township are appropriately protected from any negative secondary effects associated therewith.

### **B. Findings and Rationale**

Based on evidence of the adverse secondary effects of adult uses presented in hearings and in reports made available to the Township, the Township finds as follows:

- (1) Sexually oriented businesses, as a category of commercial uses, are associated with a wide variety of adverse secondary effects including, but not limited to, personal and property crimes, prostitution, potential spread of disease, lewdness, public indecency, obscenity, illicit drug use and drug trafficking, negative impacts on surrounding properties, urban blight, litter, and sexual assault and exploitation.

- (2) Sexually oriented businesses should be separated from sensitive land uses to minimize the impact of their secondary effects upon such uses, and should be separated from other adult businesses, to minimize the secondary effects associated with such uses and to prevent an unnecessary concentration of adult businesses in one area.
- (3) Each of the foregoing negative secondary effects constitutes a harm which the Township has a substantial government interest in preventing and/or abating. This substantial government interest in preventing secondary effects, which is the Township's rationale for this Ordinance, exists independent of any comparative analysis between adult businesses and non-adult businesses. Additionally, the Township's interest in regulating adult businesses extends to preventing future secondary effects of either current or future adult businesses that may locate in the Township. The Township finds that the cases and documentation set forth above and relied on by the Township are reasonably believed to be relevant to said secondary effects.

### **C. Regulations and Conditions**

Sexually oriented businesses shall not be located within 750 feet of any residentially zoned property, park, school, child care organization, place of worship (including, for example, churches, synagogues, temples, etc.) or any other sexually oriented business. For the purposes of this provision, measurements shall be made in a straight line in all directions without regard to intervening structures of objects, from the nearest property line of the parcel containing the sexually oriented business to the nearest property line of such residentially zoned property, park, school, child care organization, place of worship, or other sexually oriented business.

## **SECTION 650 RIGHT TO FARM ACT**

This Ordinance is not intended to extend or revise in any manner the provisions of the Right to Farm Act, MCL 286.471, et seq, or the Generally Accepted Agricultural Management Practices developed under the Right to Farm Act ("GAAMPs"). To the extent that a requirement or requirements of this Ordinance is preempted by the Right to Farm Act, or the landowner is otherwise entitled to protection or an exemption due to the landowner's compliance with GAAMPs, the requirement or requirements in question shall not apply to the landowner. A landowner may request pre-certification of a particular use of property as consistent with GAAMPs from the Zoning Administrator through a written request for pre-certification and providing information sufficient to establish compliance with the Right to Farm Act or a GAAMP.



## **ARTICLE 7**

### **SUPPLEMENTAL USE REGULATIONS**

#### **SECTION 700                    PURPOSE**

This article establishes additional standards, specific standards, exceptions to standards, or alternative standards (e.g., screening, landscaping, and/or design standards) for certain uses, structures, and facilities which may be permitted by a zoning district. To the extent that there is a conflict between a standard in another article of this ordinance and a standard in this article, the standard in this article governs unless otherwise indicated.

The purpose of this article is to provide supplemental standards for individual uses in order to protect surrounding property values and uses, to protect the public health, safety, and general welfare, and to implement the master plan.

#### **SECTION 701                    GENERAL**

Unless specifically exempted, in addition to the supplemental standards of this Ordinance all signs, parking areas, landscaping, lighting and buffering shall comply with the provisions of this Zoning Ordinance.

#### **SECTION 708                    ADULT FOSTER CARE, SMALL GROUP HOME**

##### **A. REGULATIONS AND CONDITIONS**

- (1) Facility shall maintain all valid state and local licenses.
- (2) Such facilities shall at all times be maintained in a manner consistent with the character of the surrounding neighborhood.

#### **SECTION 709                    ADULT FOSTER CARE, LARGE GROUP HOME**

##### **A. REGULATIONS AND CONDITIONS**

- (1) Facility shall maintain all valid state and local licenses.
- (2) Facility need not be operated within the primary residence of the caregiver.
- (3) Such facilities shall at all times be maintained in a manner consistent with the character of the surrounding neighborhood.

#### **SECTION 710                    ADULT FOSTER CARE FACILITY**

##### **A. REGULATIONS AND CONDITIONS**

- (1) Facility shall maintain all valid state and local licenses.
- (2) Facility need not be operated within the primary residence of the caregiver.
- (3) Such facilities shall at all times be maintained in a manner consistent with the character of the surrounding neighborhood.
- (4) Easily accessible open space areas to encourage outdoor interaction and opportunity shall be provided.

#### **SECTION 713                    BED AND BREAKFAST**

##### **A. REGULATIONS AND CONDITIONS**

- (1) The minimum lot size shall be as pursuant to the District minimum for Single Family Dwellings.
- (2) Bed & Breakfast establishments shall not be allowed on lots or parcels, including legal non-conforming lots or parcels, which do not meet the established lot size, requirements for the district in which they are allowed.
- (3) No bed and breakfast establishment shall be located closer than one thousand (1,000) feet from

another bed and breakfast establishment.

- (4) One (1) parking space per rental sleeping room plus one (1) per owner occupant shall be provided.
- (5) One (1) non-illuminated wall sign identifying the establishment not to exceed three (3) square feet in area shall be allowed.
- (6) The establishment is located within a residence which is the principal dwelling unit on the property and shall be owner-occupied at all times.
- (7) The rental sleeping rooms shall have a minimum size of one hundred (100) square feet for each two (2) occupants with an additional thirty (30) square feet for each occupant to a maximum of four (4) occupants per room.
- (8) No more than eight (8) occupants shall be accommodated in any single residence at any one time in the A Agriculture District and R-3 Multiple Family Districts and five (5) occupants in all other permitted Districts.
- (9) Use or rental of snowmobiles, all-terrain vehicles or similar vehicles, boats and other marine equipment, in conjunction with the operation of the establishment shall be prohibited.
- (10) Special land use approval shall not be granted if the essential character of the lot or structure in terms of traffic generation or appearance will be changed substantially.
- (11) A site plan shall include a floor plan layout of the proposed structure drawn to a scale of not less than 1" = 16' that shows the specific layout of the proposed facility in accord with the provisions of this Zoning Ordinance.

#### **SECTION 714 BOARDING RESIDENCE**

##### **A. REGULATIONS AND CONDITIONS**

- (1) All residences shall meet all state and local health and safety codes.
- (2) No more than five (5) individuals shall be accommodated in any single residence.
- (3) Such uses shall be carried out in an inconspicuous manner so that the nature of activities related to the residence do not differ significantly from activities related to normal residential uses in the district.

#### **SECTION 716 CAMPGROUND OR TRAVEL TRAILER PARK**

##### **A. REGULATIONS AND CONDITIONS**

Site design and development shall comply with the provisions of Act 368 of the Public Acts of 1978, as amended, and with the following requirements:

- (1) All state requirements regarding travel trailer parks shall be met.
- (2) No travel trailer park shall be located except with direct access to a major thoroughfare, with a minimum lot width of not less than fifty (50) feet for the portion used for entrance and exit.
- (3) No entrance or exit shall be through a residential district or shall require movement of traffic from the park through a residential district.
- (4) The minimum lot area per park shall be ten (10) acres with a maximum of one hundred (100) acres.
- (5) Spaces in travel parks used by travel trailers and tents shall be rented by the day or week only. Under no circumstance shall an occupant remain in the same trailer park for a period of thirty (30) days or more in a calendar year.
- (6) Management headquarters, recreational facilities, toilets, showers, laundry facilities and other uses and structures customarily incidental to the operation of a travel trailer park may be permitted as accessory uses provided the following conditions can be met:
  - (a) Such establishments and the parking area primarily related to their operations shall not occupy more than ten percent (10%) of the area of the park.
  - (b) Such establishments shall be restricted in their use to occupants of the park.

- (c) Such establishments shall present no visible evidence of their commercial character which would attract customers other than occupants of the park.
- (d) No space shall be so located that any part intended for occupancy for sleeping purposes shall be within one hundred (100) feet of the right-of-way line of any public road highway.
- (e) Setback spaces shall be occupied by plant materials and appropriately landscaped.
- (f) The travel trailer site plan shall be subject to the review and approval of the Grand Traverse County Health Department and other applicable agencies

**SECTION 717 CAR WASH**

**A. REGULATIONS AND CONDITIONS**

- (1) All such facilities shall be connected to a public water and sewer system.
- (2) All washing activities shall be carried out within a building.
- (3) No equipment shall be located closer than one hundred (100) feet to any property zoned or used for residential purposes.

**SECTION 718 CHILD CARE, FAMILY HOME (<7)**

**A. REGULATIONS AND CONDITIONS**

- (1) Child Care, Family Homes accommodating less than seven (7) children and operated within the primary residence of the caregiver shall be considered a residential use of property and not subject to a different procedure from those required for other dwellings of similar density in the same zone
- (2) Facility shall maintain all valid state and local licenses.

**SECTION 719 CHILD CARE, SMALL GROUP HOME (7-12)**

**A. REGULATIONS AND CONDITIONS**

- (1) A Planning Commission hearing is required.
- (2) Facility shall maintain all valid state and local licenses
- (3) Facility shall be operated within the primary residence of the caregiver
- (4) All outdoor areas used for the care and supervision of patrons shall have appropriate fencing for the safety of the children in the group day-care home of no less than 4 feet in height or in accordance with State regulations.
- (5) Such facilities shall at all times be maintained in a manner consistent with the character of the surrounding neighborhood.
- (6) Hours of operation shall not exceed sixteen (16) hours during a 24-hour period. The Planning Commission shall not prohibit evening operations completely, but may establish limitations on hours of operation and/or activities between the hours of 10PM and 6AM.
- (7) The Planning Commission shall determine that the facility will be safe to enter and exit via motor vehicle. This determination may rely upon the Planning Director's recommendation, following a site inspection and, if necessary, the Planning Director's discussions with the Grand Traverse County Road Commission and/or other professional traffic impact consultant.
- (8) The Planning Commission shall determine that the site is properly designed and capable of safely accommodating the proposed facility.
- (9) The Planning Commission may deny the request if any of the following facilities exist within 1,500 feet of the subject property:
  - (a) A licensed or pre-existing operating group day-care home.
  - (b) An adult care small group home (1-12 adults).
  - (c) An adult foster care large group home (13-20 adults).
  - (d) A facility offering substance abuse treatment and rehabilitation service to 7 or more people.

- (e) A community correction center resident home halfway house or similar facility under jurisdiction of the Department of Corrections.

**B. PROCEDURE**

- (1) Applications shall be submitted to the Planning Department for completeness review. All applications shall include sufficient site plans or site diagrams, and written information to adequately describe the application as it relates to the conditions of approval. Upon determination that the application is complete, the Planning Department shall forward the application to the Planning Commission for review.
- (2) The Planning Department shall notify the owners of all real property within 300-feet of the subject property that an application for a Child Care, Small Group Home has been received. This notice shall inform the recipient that an opportunity for public comment on the application is available but shall not be considered a public hearing for the purposes of the Michigan Zoning Enabling Act. The notice shall include a description of the proposed application, the mailing address where written comment may be sent, and the date, time, and address where the Planning Commission hearing will occur.
- (3) The Planning Commission, in its review, shall consider the standards of § 719.A as well as any public comment made in writing or made verbally at the Planning Commission's hearing. After this consideration, the Planning Commission may approve, approve with conditions, or deny the request.

**SECTION 720 CHILD CARE CENTER**

**A. REGULATIONS AND CONDITIONS**

- (1) Facility shall maintain all valid state and local licenses
- (2) All outdoor areas used for the care and supervision of patrons shall have appropriate fencing for the safety of the children in the group day-care home; consisting of a minimum 6-foot high privacy fence along the area adjoining another residence, and a minimum 4-foot high fence in the remaining area devoted to the day-care area.
- (3) Hours of operation shall not exceed sixteen (16) hours during a 24-hour period. The Planning Commission shall not prohibit evening operations completely but may establish limitations on hours of operation and/or activities between the hours of 10PM and 6AM.

**SECTION 725 COMMERCIAL DISTRICT HOUSING DEVELOPMENT**

**A. REGULATIONS AND CONDITIONS**

- (1) Design.
  - (a) Multiple-family residential uses built within commercial zoning districts shall be designed to cohesively integrate with the surrounding commercial uses. For the purpose of making this determination, the Planning Commission may rely on the site design requirements and general criteria as set forth in § 427, Planned Unit Residential Developments.
  - (b) Multi-family structures shall be abutted by open space on at least one side per building.
  - (c) The baseline project density shall be as described in the R-3 Multiple Family Residential Zone. At its discretion, and based upon a determination that the project is designed to meet the intent of this Section, the Planning Commission may authorize increases in density over what is regularly allowable.
  - (d) Shared parking arrangements shall be encouraged between the residential and commercial uses.

- (e) Landscaping shall be as required in Article 5, Table 531.1. In the event that the multi-family project does not sit on its own parcel, the application shall indicate a project boundary area which shall be used for the purpose of landscaping placement.
  - (f) Pedestrian walkways shall be provided within the subject parcel or project boundary for the purpose of providing safe and convenient movement within the site and towards other walkable places of interest such as stores, restaurants, or entertainment.
  - (g) The residential areas of an overall commercial development site shall be adequately, but not overly, lit at night. Applications shall demonstrate that commercial lighting in the vicinity meets the dark sky requirements of this Ordinance in order to minimize impact on the residential area. Where lighting is to be installed for a residential area, average illumination levels of 0.5 to 1.0 foot candle shall be maintained. Existing commercial lighting which illuminates the residential area of the site to this level may be used in lieu of installing additional residential lighting. Common entryways shall be adequately illuminated by wall-pack style lighting fixtures.
- (2) Open Space Requirements.
- (a) A minimum of fifty square feet per unit of private outdoor space with a minimum dimension of four feet in any direction shall be provided. Private open space shall be accessible directly from the living area of the unit, in the form of a fenced yard, patio, deck, or balcony.
  - (b) A minimum of three hundred square feet per unit of common outdoor open space shall be provided. Required open space shall be consolidated to the extent reasonably possible to provide areas for the residents and/or to help buffer the residential structures from adjacent commercial uses.
  - (c) For the purpose of locating open space, the Planning Commission may rely on the site design requirements and general criteria as set forth in § 427, Planned Unit Residential Developments.
  - (d) Required setback areas shall not be included towards required open space areas; however, placing required open space areas adjacent to setbacks is supported.
- (3) Compatibility. Applications shall describe measures which will be taken to mitigate common commercial impacts such as noise, light, and nighttime operations on the multi-family project.

**SECTION 727                    CREMATORIUM**

**A. REGULATIONS AND CONDITIONS**

- (1) All cremation activities shall be conducted within a fully enclosed building.
- (2) The facility shall not generate any emissions or odors which would negatively impact surrounding properties.
- (3) The facility shall continually follow all applicable federal, state, or local requirements, including any permits and licenses.

**SECTION 730                    DRIVE-IN AND DRIVE-THROUGH USES**

**A. REGULATIONS AND CONDITIONS**

- (1) Service and dining may be in automobiles or outdoors, but all other activities shall be carried on within a building.
- (2) A setback of at least sixty (60) feet from the right-of-way line of any existing or proposed street shall be maintained.
- (3) Ingress and egress points shall be located at least fifty (50) feet from the nearest edge of the traveled portion of any intersecting streets.
- (4) Pedestrian areas shall be clearly marked and maintained.
- (5) Only one (1) ingress-egress drive shall be allowed per major thoroughfare.

- (6) All parking requirements shall comply with Article 5 of this Ordinance.
- (7) Notwithstanding the dimensional standards of this Ordinance, lots used for drive-in businesses and drive-in or drive-through restaurants shall have a minimum width of one hundred (100) feet.
- (8) Queuing requirements, drive-in and drive-through businesses shall be designed to accommodate the maximum number of queuing vehicles that may be expected to seek service at any one time without queuing onto an adjacent thoroughfare, including service drives. The determination as to the required queuing spaces shall be established by the Planning Commission based upon the anticipated number of vehicles likely to queue while waiting for service. The Planning Commission may require more than twelve (12) queuing spaces based upon evidence presented to it, but in no event shall the required number of queuing spaces be reduced below twelve (12).
- (9) Snack and nonalcoholic beverage bars shall have a minimum queuing space in advance of order boards to accommodate six (6) motor vehicles at any time.
- (10) These requirements shall not apply to drive-in or drive-through businesses including restaurants, where queuing is accommodated entirely within the confines of a development exclusive of that development's access or service drives.
- (11) Notwithstanding the provisions of this section, the queuing of vehicles onto the traveled portion of a public roadway providing access to the business establishment such that queuing interferes to an extent with the free flow of traffic on the traveled portion of that roadway shall subject the Special Use Permit holder to enforcement action, including fines, injunctive relief and/or revocation of the Special Use Permit.
- (12) The site shall have been found to be a suitable site for a drive-in or drive-through establishment, with regard to traffic safety, by a registered engineer with an educational specialization in traffic engineering.
- (13) For the C-L Local Commercial and C-O Office Commercial districts, a Financial Institution, with Drive-Through shall have a maximum of two (2) drive-through lanes.
- (14) For the C-G General Commercial district, a Financial Institution, with Drive-Through which has two (2) or fewer drive-through lanes shall be permitted by special conditions. All other drive-in and drive-through uses in the C-G district shall require a Special Use Permit.

## **SECTION 737 ESSENTIAL SERVICE FACILITIES**

This Section is intended to permit the installation of Essential Service Facilities in any zoning district subject to conformance with this zoning ordinance, township ordinance, and/or State law, and in such a manner that the health, safety and welfare of the Township will not be adversely affected. Essential services should also be installed in cognizance of existing and projected demands for such services.

### **A. MINOR ESSENTIAL SERVICES**

- (1) Minor Essential services shall be permitted by right within the Township, subject to regulation as provided by law of the State of Michigan, and/or in any ordinance of the Township.
- (2) Except as otherwise restricted by this ordinance, the following are considered Minor Essential Service Facilities and are permitted in all zoning districts:
  - (a) Underground or aboveground utility facilities such as water mains, sewer mains and lift stations, electrical, gas, cable television and broadband distribution lines and transformers, switches, utility boxes and other equipment associated with the services provided that are designed to serve primarily Garfield Township and any adjacent community and provided the height above grade of any facility does not exceed fifty (50) feet.
  - (b) Any other facilities similar in scale and scope to the above, as determined by the Director of Planning, shall be considered a Minor Essential Service Facility.

- (c) Essential Service Facilities other than those described above shall be considered Major Essential Service Facilities.

## **B. MAJOR ESSENTIAL SERVICES**

- (1) Major Essential Service Facilities are public service facilities which, because of their size or nature, are more likely to have an adverse impact on surrounding properties or the community as a whole. Major Essential Service Facilities may be permitted by special use permit in any zoning district provided it is demonstrated that the requirements of this section and all other applicable sections of this ordinance are satisfied.
- (2) In considering applications for the placement of any Major Essential Service Facilities the Township shall consider the effects of the proposed project upon the health, safety and welfare of the Township, as existing and anticipated; and the effect of the proposed project upon the Master Plan. In addition, the following specific standards shall be reviewed as they may apply to the application:
  - (a) An applicant proposing a Major Essential Service Facility in a residential district shall demonstrate that there are no other feasible and prudent alternatives than to locate the Major Essential Service Facility in the proposed location. Furthermore, the applicant shall show that all reasonable efforts to locate the Major Essential Service Facility in an adjacent zoning jurisdiction have proven impracticable or an incompatible land use as determined by the Planning Commission.
  - (b) All above ground major essential service facilities shall be located in conformance with the yard, lot width and lot area standards of this ordinance.
  - (c) With the exception of elevated water storage facilities and electrical transmission towers and poles, major essential service facilities shall not exceed the maximum height requirements of the zoning district in which they are located.
  - (d) Major essential service facilities located out-of-doors shall to the extent possible be screened from view from adjoining properties and from road rights-of-way.
  - (e) Equipment buildings intended to house major essential service facilities, such as well houses, pump buildings or equipment shelters, shall be constructed of face brick, decorative masonry, cement board or wood lap siding designed to resemble nearby structures. Provided, that a side of such equipment building that is not visible from a public right-of-way, may be constructed of common cement block or metal panels, if further screened with evergreen landscaping.
  - (f) Any above ground Major Essential Service Facility shall be fully secured from unauthorized entry either by construction of the facility itself or through fencing which meets the requirements of this ordinance.
  - (g) Compliance with the Township Non-Motorized Plan is required.
  - (h) A Major Essential Service Facility located on a vacant parcel shall be considered the principal use of that parcel.
  - (i) An above ground Major Essential Service Facility which is fenced or which is housed in an equipment building shall include a sign placard of not more than two square feet which shall indicate the owner or operator's name, address and emergency contact information. In addition, such facilities shall include any required hazard warning signage.
- (3) Any Major Essential Service Facility which has reached the end of its useful life or has been abandoned consistent with this Section of this Ordinance shall be removed and parcel owners shall be required to restore the site.
  - (a) Absent a notice of a proposed date of decommissioning or written notice of extenuating circumstances, a Major Essential Service Facility shall be considered abandoned when it fails

to operate continuously for more than one year. The property owner shall physically remove the installation no more than one-hundred and eighty (180) days after the date of discontinued operations.

- (b) The property owner shall notify the Township and the Planning Commission by certified mail of the proposed date of discontinued operations and plans for removal.
- (c) If the property owner fails to remove the installation within 180 days of abandonment or the proposed date of decommissioning, the Township is permitted to enter the property and physically remove the installation.
- (d) Any decommissioning of a Major Essential Service Facility shall include at minimum:
  - (i) Physical removal of all Major Essential Service Facility equipment, structures, buildings, security barriers, and transmission lines from the site.
  - (ii) Disposal of all solid and hazardous waste in accordance with local, state and federal waste disposal regulations.
  - (iii) Stabilization and re-vegetation of the site as necessary to minimize erosion.

## **SECTION 748                      GASOLINE SERVICE STATIONS**

### **A. REGULATIONS AND CONDITIONS**

The following requirements for site development together with any other applicable requirements of this Ordinance shall be met:

- (1) All gasoline service facilities and accessory uses and services shall be conducted entirely within an enclosed building, including sales and storage of windshield washer fluids, landscape materials and similar items.
- (2) Within the C-H Highway Commercial District not more than ten (10) percent of the gross area of the district shall be utilized for gasoline service stations.
- (3) The minimum lot size shall be fifteen thousand (15,000) square feet with a minimum width of one hundred fifty (150) feet on the roadway(s).
- (4) The proposed site shall have at least one (1) property line on a major thoroughfare.
- (5) Buildings shall be set back forty (40) feet from all street right-of-way lines and shall not be located closer than twenty-five (25) feet to any property line in a residential district.
- (6) No more than one (1) driveway approach shall be permitted directly from any public street.
- (7) Driveway approach widths shall not exceed thirty-five (35) feet measured at the property line.
- (8) Driveways shall be located in accordance with Grand Traverse County Road Commission standards and in no case shall be located less than fifty (50) feet from the edge of the intersecting road right of way.
- (9) No driveway or curb cut for a driveway shall be located within ten (10) feet of an adjoining property line.
- (10) The site used shall be paved and adequately maintained so as to provide a durable, smooth and dustless surface.
- (11) The site is so graded and provided with adequate drainage facilities to meet the requirements of the Stormwater Ordinance.
- (12) A raised curb of at least six (6) inches in height shall be erected along all of the street property lines, except at driveway approaches. The area used for servicing vehicles within the service station property lines shall be paved with a permanent surface of concrete or asphalt.
- (13) A solid wall or fence at least four feet six inches (4'-6") in height shall be erected along all property lines abutting any lot within a residential district.



- (14) Within the C-L Local Commercial district, a Gasoline Service Station with a Convenience Store is permitted provided that the area of the C-L zoning district, within which the use is located, is not less than four (4) acres.

**SECTION 749 GOLF COURSE OR COUNTRY CLUB**

**A. REGULATIONS AND CONDITIONS**

- (1) These regulations shall not include stand-alone golf-driving ranges and miniature golf courses.
- (2) The site area shall be a minimum of fifty (50) acres and have its main ingress and egress from a major thoroughfare, as classified on the Master Plan of Garfield Township.
- (3) All principal and accessory buildings, structures, and parking areas shall not be less than eighty (80) feet from any property line of abutting residentially used or zoned land.
- (4) Development features shall be so located as to minimize any possible adverse effects upon adjacent property. The Zoning Administrator may require that any principal and accessory buildings and structures be buffered by landscaping determined by the Zoning Administrator to be appropriate for minimizing potential adverse impacts on any neighboring property.
- (5) Whenever a swimming pool is to be provided, said pool shall be located at least one hundred (100) feet from abutting residentially zoned property lines and shall be enclosed with a protective fence six (6) feet in height, with entry limited by means of a controlled gate.

**SECTION 750 HOTEL OR MOTEL**

**A. REGULATIONS AND CONDITIONS**

- (1) Minimum Floor Area: Each guest unit shall contain not less than two hundred fifty (250) square feet of floor area.
- (2) Minimum Lot Area: Eight hundred (800) square feet of lot area per guest unit, with a minimum one (1) acre lot and road frontage of one hundred fifty (150) feet:
- (3) Maximum Lot Coverage: All buildings, including accessory buildings, shall not occupy more than twenty-five percent (25%) of the net area within property lines of land developed at any one time.
- (4) Minimum Yard Dimensions: All buildings shall be set back no less than one hundred (100) feet from any street line, and no less than forty (40) feet from any side or rear property line.
- (5) Site Screening: The site may be enclosed by an open structure wood or wire fences along any yard line but shall not exceed six (6) feet in height. Shrubs and/or trees may be used to screen alone or in combination with structural screens. No screening shall in any way impair safe vertical or horizontal sight distance for any moving vehicle. Screening at least four (4) feet high shall be erected to prevent headlight glare from shining on adjacent residential or agricultural property. No screening shall be closer than seventy-five (75) feet to any street line, except for headlight screening which shall not be closer than thirty (30) feet.
- (6) Swimming pools and other outdoor recreational uses, PROVIDED, such facilities are an accessory use to a permitted use within the district and are located on the same site as the principal use to which they are accessory.
- (7) Accessory uses, such as meeting rooms, tavern, bar, or similar uses, PROVIDED, such accessory use shall be carried on within the same building as the principal use. A caretaker's or proprietor's residence shall be permitted as an accessory use only when the principal use is a motel, motor-hotel, or other transient tourist facility.

**SECTION 751 INDOOR ENTERTAINMENT CENTER**

**A. REGULATIONS AND CONDITIONS**

- (1) Within the C-H Highway Commercial district, the indoor entertainment center shall be located at

least one hundred (100) feet from an adjacent residential district.

**SECTION 752                    INSTITUTIONAL USES AND STRUCTURES**

**A. REGULATIONS AND CONDITIONS**

- (1) The proposed site shall have at least one (1) property line on a major thoroughfare.
- (2) Buildings and parking areas shall be set back at least forty (40) feet from all street right-of-way lines and thirty (30) feet from any property line in a residential or agricultural district.

**SECTION 753                    JUNK YARD**

**A. REGULATIONS AND CONDITIONS**

- (1) All uses shall be established and maintained in accordance with all applicable State of Michigan Statutes.
- (2) The site shall be a minimum of five (5) acres in size and at least one (1) property line shall abut upon a railroad right-of-way.
- (3) A solid fence or wall at least eight (8) feet in height shall be provided around the entire periphery of the site.
- (4) All activities, equipment, or material shall be confined within the fenced in area, and there shall be no stocking of material above the height of the fence or wall.
- (5) All fenced in areas shall be set back at least one hundred (100) feet from the front street or highway right-of-way line. Such front yard setback shall be landscaped with plant materials as approved by the Planning Commission to minimize the appearance of the installation.
- (6) All exterior lighting, off-street parking, signs, and landscaping and buffering shall comply with the standards of this Ordinance.
- (7) No open burning shall be permitted and all industrial processes involving the use of equipment for cutting, compressing, or packaging shall be conducted within a completely enclosed building.
- (8) Whenever the installation abuts upon any property within a residential district, a transition strip at least two hundred (200) feet in width shall be provided between the fenced in area and the property within a residential district. Such strip shall contain plant materials, grass, and structural screens of a type approved by the Planning Commission to effectively minimize the appearance of the installation and to help confine odors therein.

**SECTION 754                    KEEPING OF ANIMALS, PERSONAL**

**A. KEEPING OF CHICKENS, PERSONAL**

- (1) A maximum of four (4) hens may be kept per parcel.
- (2) Roosters are prohibited.
- (3) The slaughtering of chickens outdoors shall be prohibited.
- (4) Chickens shall be kept and maintained within a fully enclosed shelter no larger than one hundred (100) square feet in size.
- (5) Shelters shall be located within the rear of the property. However, properties fronting Silver Lake or Boardman River may locate a shelter along the front (roadside) provided they are located outside the front yard setback.
- (6) Such enclosure shall be located no closer than twenty (20) feet to the rear or side yard property lines.
- (7) No chickens shall be kept on parcels with more than one dwelling.

**B. KEEPING OF HORSES, PERSONAL**

- (1) The horse(s) shall be kept for the personal use of residents of the property

- (2) The parcel shall contain a minimum of five (5) acres of land
- (3) A maximum of three (3) horses may be allowed at any time
- (4) Structures used for housing or boarding horses shall be located a minimum of twenty (20) feet from adjacent properties.

**SECTION 755 KENNEL**

**A. REGULATIONS AND CONDITIONS**

- (1) The property shall meet the minimum standards for the Zoning Ordinance for lot area and frontage.
- (2) The applicant shall declare the maximum number of animals intended to be housed at the facility, measures for noise control, methods for exercise, waste disposal, location of outdoor structures, and fencing.
- (3) All structures that are used for animal occupancy shall be a minimum of thirty feet from property lines and located in the rear of the property.

**SECTION 756 LUMBER PROCESSING AND SAWMILL**

**A. REGULATIONS AND CONDITIONS**

- (1) Within the I-G General Industrial district, all lumber processing operations shall be conducted within a completely enclosed building.

**SECTION 757 MEDICAL MARIHUANA CULTIVATION FACILITY**

**A. REGULATIONS AND CONDITIONS**

- (1) All Medical Marihuana Cultivation shall comply at all times with the Michigan Medical Marihuana Act and the General Rules of the Michigan Department of Community Health, as they may be amended from time to time;
- (2) Not more than one (1) primary caregiver or qualifying patient shall be permitted to cultivate Medical Marihuana on any one (1) lot;
- (3) Each Medical Marihuana Cultivation Facility has received and continues to hold a Certificate of Registration issued by the Township pursuant to the Charter Township of Garfield Ordinance No. 65, Medical Marihuana Ordinance, as amended or replaced from time to time;
- (4) No transfer of Medical Marijuana by the primary caregiver or qualifying patient cultivating the Medical Marihuana to any other person(s) shall take place at a Medical Marijuana Cultivation facility;
- (5) No Medical Marihuana Cultivation Facility shall be located within 1000 feet of any residentially zoned property, park, school, child care organization, place of worship (including, for example, churches, synagogues, temples, etc.) or any other Medical Marihuana Cultivation Facility. For the purposes of this provision, measurements shall be made in a straight line in all directions without regard to intervening structures or objects, from the nearest property line of the parcel containing the Medical Marihuana Cultivation Facility to the nearest property line of such residentially zoned property, park, school, child care organization, place of worship, or other Medical Marihuana Cultivation Facility.

**SECTION 758 MEDICAL MARIHUANA RESIDENTIAL CULTIVATION**

**A. REGULATIONS AND CONDITIONS**

- (1) Permitted only as an accessory use to a dwelling unit

- (2) All Medical Marihuana Residential Cultivation shall comply at all times with the Michigan Medical Marihuana Act and the General Rules of the Michigan Department of Community Health, as they may be amended from time to time
- (3) The principal use of the parcel shall be a dwelling and shall be in actual use as such by the primary caregiver or qualifying patient cultivating the Medical Marihuana
- (4) No alteration to the exterior of the residential dwelling, accessory building or yard that alters the residential character of the premises is permissible
- (5) No vehicles used in cultivation may be parked, kept or otherwise be present on the parcel, other than such as are customarily used for domestic or household purposes
- (6) No transfer of Medical Marihuana to qualifying patients other than qualifying patients residing on the parcel shall occur
- (7) Cultivation shall be conducted so as not to create unreasonable dust, glare, noise, odors or light spillage beyond the parcel and shall not be visible from an adjoining public way
- (8) No Medical Marihuana shall be cultivated outdoors
- (9) Not more than the maximum number of plants one (1) qualifying patient may cultivate under the Michigan Medical Marihuana Act shall be cultivated per dwelling unit

## **SECTION 759 MOBILE HOME PARK**

### **A. REGULATIONS AND CONDITIONS**

- (1) Any mobile home park may include any or all of the following uses, provided, that a plan of the proposed development is approved by the State of Michigan in accordance with PA 96 of 1987 as amended, and provided further that said development plan can meet the standards of this Section.
- (2) One permanent building for conducting the operation and maintenance of the mobile home park and such other accessory buildings including a caretaker's residence as may be necessary for the normal operation of the mobile home park.
- (3) Parking Requirements:
  - (a) Parking shall be prohibited on any street or access lane.
  - (b) No visitor vehicles shall be parked or stored within any required open space between mobile homes or any drive or street within the mobile home park.
  - (c) Space between mobile home units may be used for parking of motor vehicles provided that such space is surfaced with materials which provide a dustless, durable and smooth surface and meets the parking requirements of this Ordinance.
  - (d) Off-street group parking facilities shall be within three hundred (300) feet of all mobile home lots intended to be served.
- (4) Lighting:
  - (a) No spotlights or floodlights shall be used for lighting or advertising purposes.
  - (b) No lighting used for identification, advertising purposes or street lighting shall have a visible source of illumination and shall comply with the Lighting standards of this Ordinance.
- (5) Landscaping:
  - (a) Landscaping and buffering standards shall apply to all property boundaries.
- (6) Setbacks:
  - (a) Mobile Home Parks shall comply with Section 775 of this Ordinance.
- (7) Mobile Home Unit Sales:
  - (a) The business of selling new and/or used mobile homes as a commercial operation in connection with the operation of a mobile home park is prohibited.
  - (b) New or used mobile homes located on lots within the mobile home park to be used and occupied within the mobile home park may be sold by a licensed dealer and/or broker.

- (c) This section shall not prohibit the sale of a new or used mobile home by a resident of the mobile home park, provided the development permits the sale.

**SECTION 760 MORTUARY OR FUNERAL HOME**

**A. REGULATIONS AND CONDITIONS**

- (1) In addition to any required off-street parking area, an off-street assembly area shall be provided to accommodate vehicles to be used in a funeral procession.
- (2) The site shall be so located as to have all ingress and egress, or a marginal access service drive, be directly onto a primary road.
- (3) Points of ingress and egress for the site shall be designed so as to minimize possible conflicts between traffic on adjacent major thoroughfares and funeral processions or visitors entering or leaving the site.
- (4) No building shall be located closer than fifty (50) feet from a property line that abuts any residential district.
- (5) A caretaker's residence may be provided within the main building of the mortuary establishment.
- (6) Loading and unloading areas used by ambulances, hearses or other such service vehicles shall be obscured from all residential view with a wall six (6) feet in height.
- (7) All required federal, state and local licensing and permits shall be maintained at all times.

**SECTION 761 OUTDOOR ENTERTAINMENT CENTER, MAJOR**

**A. REGULATIONS AND CONDITIONS**

- (1) All sites shall be located on a major thoroughfare, as classified on the Master Plan of Garfield Township, and all ingress and egress to the site shall be from said thoroughfare.
- (2) All points of entrance and exit for motor vehicles shall be located no closer than two hundred (200) feet from the intersection of any two (2) streets or highways.
- (3) Acceleration and deceleration lanes should be provided, where possible, at points of ingress and egress to the site, and left turns at entrances and exits should be prohibited on the major thoroughfare where possible.
- (4) Whenever any use permitted herein abuts property within any residential district, a transition strip at least two hundred (200) feet in width shall be provided between all operations and structures, including fences, and the residential property. Plant materials, grass and structural screens or fences of a type approved by the Planning Commission shall be placed within said transition strip.
- (5) A minimum yard of one hundred (100) feet shall separate all uses and operations permitted herein, including fences, from any public street or highway used for access or exit purposes. This yard shall be landscaped in accordance with plans approved by the Planning Commission.
- (6) Drive-in theaters and racetracks shall be enclosed for their full periphery with a solid screen fence at least eight (8) feet in height.
- (7) For drive-in theaters, vehicle standing space shall be provided between the ticket gates and the street or highway right-of-way line equal to at least thirty percent (30%) of the vehicular capacity of the theater.
- (8) Drive-in theater picture screens shall not be permitted to face any public street and shall be out of view from any major thoroughfare or adjacent residential district.
- (9) All exterior lighting, off-street parking, signs, and landscaping and buffering shall comply with the standards of this Ordinance.

**SECTION 762                      OUTDOOR SALES**

**A.    OUTDOOR SALES, MAJOR**

The sale of automobiles, trailers, boats, and similar large items may be permitted provided the following conditions can be met:

- (1) The property has at least one property line on a major thoroughfare.
- (2) Access is limited to one (1) driveway approach to any public street and shall comply with Grand Traverse County Road Commission or MDOT requirements.
- (3) No driveway or curb cut shall be located closer than 10 feet to an adjoining property.
- (4) The property has an approved commercial retail business and structure located on the property that meets the standards of the Ordinance.
- (5) The sales area shall be paved and adequately maintained so as to provide a smooth dustless surface.
- (6) All development standards of Article 5 can be met.

**B.    OUTDOOR SALES, MINOR**

- (1) All non-plant materials shall be screened from public view.

**C.    OUTDOOR SALES, TEMPORARY**

- (1) The property has at least one property line on a major thoroughfare.
- (2) A temporary outdoor sales event is an accessory use to the established on-site business.
- (3) The goods offered for sale are an extension of the inventory within the established business, or as specifically identified by this Ordinance.
- (4) The event shall not exceed 30 days per calendar year.
- (5) The location of the event area shall not impede on site traffic circulation, or barrier free parking.

**SECTION 763                      OUTDOOR STORAGE, PRIMARY USE**

**A    REGULATIONS AND CONDITIONS**

- (1) The use shall be conducted within a fenced and properly screened area.

**SECTION 764                      PASSENGER TERMINAL**

**A.    REGULATIONS AND CONDITIONS**

- (1) Passenger terminals shall be located to minimize adverse effects on neighboring properties.
- (2) The proposed site shall have at least one (1) property line on a major thoroughfare.
- (3) No more than one (1) driveway approach shall be permitted directly from any public street.
- (4) Passenger terminals shall be designed to emphasize a multimodal approach to service patrons as they access the site and internally (bike, walk, drive).
- (5) All repairs of vehicles shall be off site or in an enclosed building.
- (6) No vehicle fueling is permitted to occur on site

**SECTION 765                      PET SHOP**

**A.    REGULATIONS AND CONDITIONS**

- (1) The use shall take place in a completely enclosed building and shall be insulated from noise.

**SECTION 766                      RECREATIONAL FIELD COMPLEX**

**A.    REGULATIONS AND CONDITIONS**

- (1) The complex is to be designed, constructed, maintained, and operated to be compatible with properties in the vicinity and the district.

- (2) The minimum site size shall be five (5) acres with a minimum width of two hundred (200) feet
- (3) The site shall be located on a major thoroughfare as classified in the Garfield Township Master Plan and all ingress and egress for the site shall be from said thoroughfare.
- (4) A minimum setback of fifty (50) feet shall be provided on all property lines and adjacent to roadways.

**SECTION 767 RESEARCH AND DESIGN FACILITY**

**A. REGULATIONS AND CONDITIONS**

- (1) For any research and design facility which includes a “Safety compliance facility” as defined by the Medical Marihuana Facilities Licensing Act (Public Act 281 of 2016) or a “Marihuana safety compliance facility” as defined by the Michigan Regulation and Taxation of Marihuana Act (Initiated Law 1 of 2018), such facility shall continually follow all applicable state or local requirements, including any permits and licenses.

**SECTION 768 RESTAURANT, WITH DRIVE-THROUGH AND RESTAURANT, WITHOUT DRIVE-THROUGH**

**A. REGULATIONS AND CONDITIONS**

- (1) Outdoor seating is permitted provided the area is delineated by a curb or similar barrier.

**SECTION 769 RETAIL FABRICATOR**

**A. REGULATIONS AND CONDITIONS**

- (1) Such shop or establishment shall not employ more than ten (10) persons in the fabrication process in a twenty-four (24) hour period.
- (2) Sixty percent (60%) of sales on the premises shall be retail.

**SECTION 770 RETAIL, INDUSTRIAL PRIMARY**

**A. REGULATIONS AND CONDITIONS**

- (1) Outdoor display of individual pieces of equipment may be permitted in areas so designed in the site plan as approved, PROVIDED, the display area has been designed and constructed as part of the overall site improvements.
- (2) Display areas shall be suitably landscaped. Such landscaping shall include shrubs and trees in sufficient quantity to mitigate any adverse impact of the outdoor display.
- (3) Servicing and repairs shall be conducted only within a totally enclosed building.

**SECTION 771 SAND OR GRAVEL PIT, QUARRY**

**A. REGULATIONS AND CONDITIONS**

All uses shall be established and maintained in accordance with all applicable Federal and State laws and regulations. Garfield Township has determined that extraction of natural resources by mining in zoning districts other than IL and A will result in very serious consequences under the standards set forth in *Silva v Ada Township*, 416 Mich 153 (1982), and as further codified at MCL 125.3205. Therefore, the Township has only allowed mining in these two zoning districts subject to a property owner obtaining a special use permit and also subject to the following supplemental use regulations. However, to the extent that there is a determination under MCL 125.3205 by a court of competent jurisdiction that the Township must allow mining of natural resources to occur in a zoning district that is not IL or A, these supplemental use regulations shall still apply to the mining activity regardless of location.

- (1) The Planning Commission may require the applicant to file a performance bond of sufficient amount to assure completion of the work following excavation, as required by his Ordinance.
- (2) No fixed machinery shall be erected or maintained within one hundred (100) feet of any property or street line.
- (3) All uses shall be enclosed by a fence or suitable plantings six (6) feet or more in height for the entire periphery of the property.
- (4) No slope shall exceed an angle with the horizontal of forty-five degrees (45°).
- (5) At all stages of operations, pits or quarries shall be completely and continually drained of water when not in use or supervised by a watchman. All slopes and banks shall be graded and treated to prevent erosion or any other potential deterioration.
- (6) No building shall be erected on the premises except as temporary shelter for machinery or field office.
- (7) The Planning Commission shall establish routes for truck movement to and from the site in order to minimize the wear on public streets and to prevent hazards and damage to properties in the Township. That portion of access roads within the area of operation shall be provided with a dustless surface.
- (8) All installations shall be maintained in a neat, orderly condition so as to prevent injury to property, any individual, or the Township in general.
- (9) Proper measures, as determined by the Planning Commission, shall be taken to minimize the nuisance of noise and flying dust or rock. Such measures may include limitations upon the practice of stockpiling excavated materials on the site.
- (10) When excavation and removal operations are completed, the excavated area shall be graded so that no gradients in disturbed earth shall be steeper than a slope of three (3) to one (1) in horizontal-vertical gradient. A layer of arable top soil shall be spread over the excavated area to a minimum depth of four (4) inches in accordance with an approved contour plan furnished by the applicant. The area shall be seeded with a perennial rye grass, or other similar soil-holding materials, and maintained by the applicant until the area is stabilized.

**SECTION 772 SERVICE ESTABLISHMENT, BUSINESS**

**A. REGULATIONS AND CONDITIONS**

- (1) In the C-L Local Commercial district, the gross building area shall not exceed 2,400 square feet.

**SECTION 773 SOLAR ENERGY SYSTEMS**

It is the intent of this Section to permit solar energy systems by regulating their siting, design, and installation to protect public health, safety, and welfare, to ensure compatibility with adjacent land uses, and to protect active farmland, prime soils, and forested properties.

**A. ACCESSORY SOLAR ENERGY SYSTEMS**

- (1) Accessory solar energy systems shall be permitted by right in any zoning district for on-site use.
- (2) Ground mounted solar energy systems shall only be in a side or rear yard and shall meet or exceed required yard setbacks. Placement of ground mounted solar energy systems is not permitted within the required front yard.
- (3) Roof mounted solar energy equipment shall be located so as not to increase the total height of the structure above the maximum allowable height of the structure on which it is located, in accordance with the applicable zoning district height regulations.
- (4) Ground mounted solar energy systems shall not exceed 10 feet in height and shall be securely anchored into the ground.



- (5) Solar panels shall be placed and arranged such that reflected solar radiation or glare shall not be directed onto adjacent buildings, properties or roadways.

**B. PRIMARY SOLAR ENERGY SYSTEMS**

- (1) Primary solar energy systems may be permitted by special use permit in any zoning district provided it is demonstrated that the requirements of this section and all other applicable sections of this Ordinance are satisfied.
- (2) All structures and equipment for a primary solar energy system shall be 100 feet from any front property line and 50 feet from any side or rear property line.
- (3) Ground mounted solar energy systems shall not exceed 15 feet in height and shall be securely anchored into the ground.
- (4) Solar panels shall be placed and arranged such that reflected solar radiation or glare shall not be directed onto adjacent buildings, properties or roadways.
- (5) Primary solar energy systems shall not include any image except to identify the manufacturer or operator of the solar energy system. All signage shall conform to the requirements of this Ordinance.
- (6) All utility collection lines from the primary solar energy system shall be placed underground.
- (7) Primary solar energy systems shall provide a Type "D" buffer for all adjacent land uses as required in Section 531.G of this Ordinance.
- (8) The primary solar energy system operator shall maintain the facility in good condition, including but not limited to structural repairs and integrity of security measures and maintaining site access to a level acceptable to local emergency response personnel.
- (9) The applicant for a primary solar energy system shall provide a form of surety, either through escrow account, bond, or otherwise, to cover the cost of removal of the system in the event the Township removes the installation as authorized in this section. The applicant shall submit a fully inclusive estimate of the costs associated with removal, prepared by a qualified engineer. The amount shall include a mechanism for calculating increased removal costs due to inflation. The amount and form of financial surety is to be determined by the Planning Commission, but in no event to exceed more than 125 percent of the cost of removal and compliance with the additional requirements set forth herein. The amount of financial surety shall be reviewed by the Planning Commission every 10 years and may be adjusted by the Planning Commission to reflect increased cost of removal and compliance with the additional requirements set forth herein.
- (10) Any primary solar energy system which has reached the end of its useful life or has been abandoned consistent with this Section of this Ordinance shall be removed and parcel owners shall be required to restore the site.
  - (a) Absent a notice of a proposed date of decommissioning or written notice of extenuating circumstances, a primary solar energy system shall be considered abandoned when it fails to operate continuously for more than one year. The property owner shall physically remove the installation no more than one-hundred and eighty (180) days after the date of discontinued operations.
  - (b) The property owner shall notify the Township and the Planning Commission by certified mail of the proposed date of discontinued operations and plans for removal.
  - (c) If the property owner fails to remove the installation within 180 days of abandonment or the proposed date of decommissioning, the Township is permitted to enter the property and physically remove the installation.
  - (d) Any decommissioning of a primary solar energy system shall include at minimum:

- (i) Physical removal of all aboveground primary solar energy systems and ancillary solar equipment, structures, equipment, security barriers, and transmission lines from the site.
- (ii) Disposal of all solid and hazardous waste in accordance with local, state and federal waste disposal regulations. Any hazardous material in the solar panels, electronics and parts are required to provide proper disposal and profiling and documentation of the disposal.
- (iii) Stabilization and re-vegetation of the site as necessary to minimize erosion.

**SECTION 774                    STORMWATER CONTAINMENT, NON-AGRICULTURAL**

**A. REGULATIONS AND CONDITIONS**

- (1) Low Impact Development standards shall be used to the satisfaction of the Planning Commission and Township Engineer.

**SECTION 775                    SUPPLEMENTAL SETBACKS FOR PLANNED DEVELOPMENTS AND MOBILE HOME PARKS**

**A. REGULATIONS AND CONDITIONS**

It is the intent of this Ordinance that residential developments other than conventional subdivisions be designed, constructed, operated and maintained so as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity of the Township in which they are located, and that such a use will not change the essential character of the area in which it is proposed. Inasmuch as planned unit developments and mobile home parks may involve higher densities of land use or building types which distinctly differ from the single family conventionally built dwellings which predominate through the Township, periphery setbacks for such developments are established as follows.

All buildings, including single family homes within a planned unit development or mobile homes within a mobile home park shall be placed at least fifty (50) feet from any public right of way line for existing roadways bordering a site and at least thirty (30) feet from a development boundary line which is not a public road right of way. Setback spaces shall be occupied by plant materials and appropriately landscaped.

**SECTION 776                    SWIMMING POOL, PRIVATE**

**A. REGULATIONS AND CONDITIONS**

- (1) Permitted as an accessory use.
- (2) There shall be a minimum distance of not less than ten (10) feet between the adjoining property line and the outside of the pool wall.
- (3) There shall be a distance of not less than six (6) feet between the outside pool wall and any building located on the same lot.

**SECTION 777                    WAREHOUSE OR DISTRIBUTION CENTER, HAZARDOUS MATERIALS**

**A. REGULATIONS AND CONDITIONS**

- (1) The applicant shall demonstrate that proper design and measures established by State and Federal agencies have been adhered to by providing sealed and signed drawings by a registered and licensed engineer or architect.
- (2) Any hazardous, flammable, or corrosive materials proposed to be used, stored, or handled on site shall be conducted in accordance with State and Federal guidelines including the incorporation of adequate secondary containment structures.

- (3) No discharge to groundwater, including direct or indirect discharge to groundwater shall be permitted.
- (4) Storm water measures shall be designed so that all storm water will be contained on site and measures taken so that no water can be directed away from the site in case of a spill.
  - (a) The Planning Commission shall consider the location of environmentally sensitive areas when considering approval of the use.
- (5) All State and Federal agency requirements for storage, spill prevention, record keeping, emergency response, transport and disposal of hazardous substances and polluting materials shall be met.

**SECTION 778 WATERFRONT STAIRWAYS AND LANDINGS**

**A. REGULATIONS AND CONDITIONS**

Waterfront stairways and landings may be constructed within the waterfront setback subject to the following conditions:

- (1) Only one stairway per property may be placed between the high water mark and the structure setback requirement of the district or water body.
- (2) Stairways shall comply with the required side yard setback.
- (3) The walking surface of such structures shall not be less than 3 feet and not more than five (5) feet in width measured generally perpendicular to the path of travel.
- (4) Stairway landings shall not exceed a size equal to the stairway width measured in any direction.
- (5) Stairways and landings shall not have a glossy or reflective surface.
- (6) Stairways shall be constructed in accordance with the general stairway requirements of the Michigan Residential Building Code for treads, risers, guardrails, handrails, and landings as described under MRC 311.7, as amended.

**SECTION 779 WHOLESALER**

**A. REGULATIONS AND CONDITIONS**

- (1) For a wholesaler which includes retail operations, the wholesaler use shall be supplemental to retail sales and shall account for no more than forty percent (40%) of all merchant sales.

**SECTION 780 WIND ENERGY CONVERSION SYSTEM**

**A. REGULATIONS AND CONDITIONS**

The following specific standards shall be satisfied prior to the issuance of a special use permit for a Wind Energy Conversion System (WECS).

- (1) WECS shall be allowed only in the following districts: A, C-L, C-G, I-G, and I-L provided they meet the requirements of this Ordinance.
- (2) In addition to the requirements of Section 423, Special Use Permits, the site plan of the property shall show the location of overhead electrical transmission or distribution lines, whether utilized or not, and the location of the WECS with its specific dimensions, including the entire area through which the rotor(s) may pass, the location of any guy wires or other support devices, and the location of all occupied dwelling units within 300 feet of the WECS.
- (3) Each Special Use Permit Application shall be accompanied by a complete set of (either the original or an accurately reproduced copy) of the manufacturer's instructions which shall, at a minimum, include the following:
  - (a) A standard foundation and anchor design or specifications for normal soil conditions;
  - (b) A detailed parts list;
  - (c) Clearly written detailed instructions for the assembly, installation, checkout, operation and maintenance of the WECS on site;

- (d) The list of warning documents required by § 780 (A)(8).
  - (e) Grounding and lightning procedures protection which follow the National Electrical Code, Articles 250 (Grounding) and 280 (Lightning Arresters);
  - (f) Underwriters label;
  - (g) Proof of insurance
- (4) Electromagnetic Interference. The entire WECS (including turbines, alternators, generators, and interconnect systems) shall be filtered and/or shielded to prevent the emission of generated radio frequency energy which would cause any interference with radio, and/or television broadcasting or reception, and shall comply with Federal Communication Rules, 47 CFR Parts 15 (including subparts A and F) and 18 (including subparts A, D and H).
- (5) Noise. The maximum level of noise permitted to be generated by any WECS shall be sixty (60) decibels, as measured on the dBA scale, measured at the property line nearest the WECS.
- (6) Setbacks. No WECS shall be erected such that any portion of the tower or turbine is closer to utility lines, property lines than the total distance equal to the height of the tower and rotor combined.
- (7) Height. The maximum allowable height, including rotor blade length of horizontal wind turbines, of any WECS shall be seventy-five (75) feet, unless otherwise prohibited by State or Federal statutes or regulations.
- (8) Labeling:
- (a) The following information shall be provided on labels attached to the WECS tower subsystem in a visible, easily accessible location:
    - (i) Equipment weight of the tower subsystem;
    - (ii) Manufacturer's name and address;
    - (iii) Model number;
    - (iv) Serial number;
    - (v) The following tower warning label or equivalent warning: Installation and Maintenance of This Product Near Power Lines is a Danger. For Your Safety Follow the Installation and Maintenance Instructions.
    - (vi) The survival wind speed in miles per hour and meters per second.
- (9) The following information shall be provided on labels attached to the WECS power conversion subsystem in a visible, easily accessible location:
- (a) Maximum power input (KW); rated voltage (volts) and rated current output (amperes); of the generator alternator, etc;
  - (b) Manufacturer's name and address;
  - (c) Model number;
  - (d) Serial number;
  - (e) Emergency and normal shutdown procedure
  - (f) Underwriters label.
- (10) Ground Clearance. For both horizontal and vertical axis turbines, and WECS rotor shall be located on the tower or support such that the minimum blade clearance above ground level is equal to the average height of structures surrounding the WECS.
- (11) Insurance - Liability. Owners of a WECS shall carry one of the following forms of insurance:
- (a) Property Owner
    - (i) Homeowners' policy;
    - (ii) Extension to homeowner's policy,
    - (iii) Comprehensive personal liability policy;
    - (iv) Farm Owner's policy with comprehensive personal liability to cover WECS;
    - (v) Commercial liability policy.

- (b) Tenant.
    - (i) Non-owner occupied dwelling policy;
    - (ii) Commercial policy.
  - (c) Proof of insurance shall be supplied to the Township annually as a condition of renewal of the Special Use Permit. Minimum limit of liability shall be three hundred thousand dollars (\$300,000.00). Insurance policies are to remain in effect during the terms of the Special Use Permit. The Code Enforcement Officer may require proof of insurance at various intervals during the term of the Special Use Permit. Accessibility. Towers shall be designed and constructed in such a manner that climbing devices are only accessible with a separate ladder.
- (12) Interconnected WECS. In the case of WECS to be interconnected with the power grid of the local electric utility, the applicant shall provide proof of written notice to the utility of the proposed interconnection and the utility's response thereto. The resident shall comply with all requirements of the servicing utility if the WECS is interfaced with the utility grid. The utility will install appropriate electric metering (for sellback or non-sellback), and the customer will be required to install a disconnecting device adjacent to the electric meter(s).

**SECTION 781 WIND ENERGY CONVERSION SYSTEM, PERSONAL**

**A. REGULATIONS AND CONDITIONS**

Personal Wind Energy Conversion Systems (PWECS) may be considered as an accessory use subject to the following conditions:

- (1) The property has a minimum lot size of 1 acre in size.
- (2) Freestanding PWECS in the agricultural district may be approved administratively provided the height does not exceed forty (40) feet.
  - (a) PWECS in the agricultural district may be permitted by SUP up to 60 feet in height provided all standards can be met.
  - (b) Height is measured from the native grade below the PWECS to the highest part of the combined height of the tower and blade.
  - (c) Due to airport restrictions, FAA approval is required for any structure exceeding 35' in height. A letter of approval shall be submitted at the time of application for land use.
- (3) Structure-mounted PWECS are permitted provided the structure is in conformance with all district standards and can meet the setbacks measured in the same manner as freestanding PWECS.
- (4) Structure-mounted PWECS shall only be mounted on the structure in which the owners reside, or it is intended to serve.
- (5) The applicant shall provide the Zoning Administrator with evidence that the PWECS noise level as measured at any property line will not exceed 45db.

**SECTION 792 WIRELESS COMMUNICATIONS FACILITIES AND ANTENNAE**

*Purpose and findings:* The purpose and intent of this section is to:

- (1) Promote the health, safety, and general welfare of the public by regulating the siting of wireless communications facilities and antennae;
- (2) Minimize the visual, aesthetic, and public safety impacts of wireless communications facilities on surrounding areas by establishing standards for location, structural integrity, and compatibility;
- (3) Encourage the location and collocation of wireless communications equipment on existing structures, thereby minimizing visual, aesthetic, and public safety impacts and effects and reducing the need for additional antenna supporting structures;
- (4) Accommodate the growing need and demand for wireless communications services;
- (5) Encourage coordination between providers of wireless communications services in the township;

- (6) Protect the character, scale, stability, and aesthetic quality of the residential districts of the township by imposing certain reasonable restrictions on the placement of residential communication facilities;
- (7) Establish predictable and balanced regulations governing the construction and location of wireless communications facilities;
- (8) Provide for the removal of discontinued antenna supporting structures; and
- (9) Provide for the replacement or removal of nonconforming antenna supporting structures.

**A. Applicability**

- (1) Except as provided in subsection (2) below, this division shall apply to the installation, construction, or modification of all wireless communications facilities and antennae.
- (2) The following items are exempt from the provisions of this section:
  - (a) Regular maintenance of any existing wireless communications facility that does not include the placement of a new wireless communications facility or antenna;
  - (b) Any existing or proposed antenna supporting structure with an overall height of thirty-five (35) feet or less;
  - (c) Any wireless communications facility that is not visible from the exterior of the building or structure in which it is mounted; and
  - (d) Wireless communications facilities erected for, or upon the declaration of a state of emergency by, a federal, state, or local unit of government.
  - (e) Collocations provided they comply with the terms and conditions of any previous approval and:
    - (i) Does not increase the overall height of the wireless communications support structure by more than 20 feet or 10% of its original approved height, whichever is greater.
    - (ii) Does not increase the width of the wireless communications support structure by more than the minimum necessary to permit collocation.
    - (iii) Does not increase the area of the existing equipment compound to greater than 2,500 square feet.

**B. Development Review and Permitted Uses**

- (1) Except as provided in subsection (2), below, no wireless communications facility or antenna is permitted except in accordance with the development review process as indicated in Table 7-14, based on the applicable zoning district and height of the proposed facility or antenna. Regardless of the development review process required, the applicant must comply with all applicable submission, procedural, and substantive provisions of this ordinance.
- (2) All collocations and roof- and surface-mounted facilities are subject to administrative approval as set forth in § 792.C. Development Review Process of this article, unless exempted by § 792 A.2.

**Table 7-14: Telecommunication Facility Height and Procedures**

<b>Type of Facility or Antenna</b>	<b>Approval Procedure</b>
Wireless Communication Facility	Permitted subject to SUP Review
Roof- or Surface-Mounted Antenna	Permitted subject to Administrative Review
Collocation of Wireless Communication Antenna	Permitted subject to Administrative Review
Residential Facilities	Permitted subject to Administrative Review and FAA approval if less than 50 feet in height, otherwise prohibited

### **C. Development Review Process**

#### **(1) Administrative Approval**

Where, pursuant to § 792.B. Development Review and Permitted Uses of this article, administrative review is required, the application will be reviewed for compliance with this article by the Zoning Administrator, who will render a final decision of approval, denial, or approval with conditions. Within thirty (30) days of the Zoning Administrator's decision, appeal may be made to the Zoning Board of Appeals pursuant to Article 4, Procedures, of this ordinance.

#### **(2) Special Use Permit (SUP)**

Where, pursuant to § 792.B. Development Review and Permitted Uses of this article, a SUP is required, the application will be reviewed as provided in Article 4, Procedures, of this ordinance and this section.

### **D. Submission Requirements**

- (1) The requirements as indicated in Table 7-15 (see page 7-21) must be provided with an application for any wireless communications facility or antennae. The application must be signed by the property owner, the applicant, and a provider who will be placing antennae on the proposed wireless communications facility.
- (2) The Zoning Administrator in the case of an administrative approval, or the Planning Commission in the case of a SUP application, may modify the submission requirements where it is determined that certain information is not required or useful in determining compliance with the provisions of this ordinance. A decision to modify certain submission requirements must be in writing and made a part of the application file.
- (3) If the property owner is not a provider, the application must include a copy of an executed lease agreement between the applicant or property owner and a provider, or, where no lease agreement has been executed, an affidavit signed by a carrier attesting to an intent to place antennae on the wireless communications facility if the application is approved.

### **E. Standards**

The standards for the establishment of all proposed wireless communications facilities and antennae are as indicated by type of facility in § 792.F.(1) Number of Facilities to be Minimized through § 792.F.(10) Signs of this article. Where overall height requirements set forth in § 792 Wireless Communications Facilities of this article conflict with those set forth in the applicable zoning district, those set forth in § 792 Wireless Communications Facilities of this article govern.

### **F. Standards Applicable to All Wireless Communication Facilities and Antennae**

#### **(1) Number of Facilities to be Minimized**

- (a) **Generally:** Antenna supporting structures must be located in a manner that is consistent with township's interest in land-use compatibility. No antenna supporting structure will be permitted unless the applicant demonstrates that the proposed antenna cannot be accommodated on an existing antenna supporting structure.
- (b) **Letters of coordination:** The applicant must provide documentation that a notice was mailed, via certified mail, to all providers or, where applicable, to owners of existing antenna supporting structures, and that the applicant was unable to secure a lease agreement with a provider to allow the placement of the proposed antennae on an existing structure or building within the geographic search area.

- (c) **Additional evidence:** As appropriate, the following evidence may also be submitted to demonstrate compliance with this section:
- (i) That no existing wireless communications facility within the geographic search area meets the applicant's radio frequency engineering or height requirements;
  - (ii) That no building or structure within the geographic search area has sufficient structural strength to support the applicant's proposed antennae; or
  - (iii) That there are other limiting factors that render collocated, surface-mounted, or roof-mounted facilities unsuitable or unreasonable.

**Table 7-15: Telecommunications Facility – Submittal Requirements**

Antenna	Collocations	Roof-Mounted	Surface-Mounted	Required Submissions
✓	✓	✓	✓	A complete application on a form provided by the department
✓	✓	—	—	The name, address, and telephone contact information for the owner of any proposed or existing antenna supporting structure, and a statement that such information will be updated annually or upon a change of ownership after the application is approved
✓	—	—	—	A survey of the lot completed by a registered land surveyor that shows all existing uses, structures, and improvements
✓	✓	✓	✓	A site plan of the property showing all proposed uses, structures and improvements
✓	✓	✓	✓	Antenna heights and power levels of the proposed facility and all other facilities on the subject property, including a statement of the height above sea level of the highest point of the proposed facility
✓	—	✓	✓	A graphical representation, and an accompanying statement, of the search area used to locate the proposed facility
✓	—	✓	✓	A graphical representation, and an accompanying statement, of the coverage area planned for the cell to be served by the proposed facility along with a service map showing all existing towers and coverage area for those towers in adjacent sections
✓	—	✓	✓	A radio frequency plot indicating the coverage of existing wireless communications sites, and that of the proposed site sufficient to demonstrate geographic search area, coverage prediction, and design radius
✓	✓	✓	✓	A statement by a qualified professional engineer specifying the design structural failure modes of the proposed facility, including



				proof that the proposed antenna supporting structure has been designed so that, in the event of structural failure, the facility will collapse within the boundaries of the lot on which it is located
✓	✓	✓	✓	A stamped or sealed structural analysis of the proposed wireless communications facility prepared by a professional engineer, indicating the proposed and future loading capacity of the facility
✓	✓	✓	✓	Proof of a license (and for broadcast structures, a construction development approval) issued by the FCC to transmit radio signals in the township
✓	—	—	—	A shared use plan, including a statement, which indicates the applicant's intent to allow the co-location of other antenna, provided that the cost of modifying the existing tower is borne by the collocating entity and reasonable compensation, is paid by the co-locating entity. In support of this statement, the applicant will make this information reasonably known to service providers.

**(2) Construction**

Antenna supporting structures shall be constructed utilizing monopole or freestanding lattice type construction only, unless the applicant is able to demonstrate that such a structure cannot accommodate the proposed or future antennae.

**(3) Setbacks**

- (a) Antenna supporting structures, equipment enclosures, and ancillary appurtenances must meet the minimum setback requirements for the zoning district in which they are proposed.
- (b) In addition to complying with (a) above, antenna supporting structures must also be set back a distance equal to their overall height from the lot line of any lot that contains a residential use, that is vacant but may be used for residential purposes, or that is within a residential zoning district; however, guy-wire anchors need only comply with the provisions of subsection (a), above.
- (c) The setback requirements specified in (a) and (b) above are minimums. Any proposed wireless communication facility or antenna proposed and requiring SUP application and approval may have a greater setback requirement imposed by the Planning Commission if substantiated by a need to minimize the visual, aesthetic, and public safety impacts of the facility or antenna.

**(4) Accommodation of Future Collocations**

- (a) Antenna supporting structures must be designed to accommodate future collocations by at least two (2) additional service providers. A notarized statement by the applicant to this effect shall be provided by the applicant. The exact amount of additional equipment to be accommodated will be agreed upon during the application review and approval process.
- (b) The proposed location of a wireless communication facility shall be adequately sized and configured to allow the placement of at least two (2) additional communication equipment shelters.
- (c) Wireless communication towers shall reserve space on the tower for at least one (1) public safety antenna, and shelter or ground space to accommodate one (1) equipment shelter if deemed necessary.

- (d) As a condition of approval under this article, the applicant must submit a shared use plan that commits the owner of the proposed antenna supporting structure to accommodate future collocations where reasonable and feasible in light of the criteria set forth in this section.
- (e) The provisions of (a) through (d) above shall not apply to Residential Facilities.

**(5) Equipment Shelter Design and Height**

The design and materials used in the construction of the equipment shelter shall, to the extent possible, blend the structure with the surrounding built or natural environment. The equipment shelter shall not exceed fifteen (15) feet in height.

**(6) Lighting**

- (a) No lights, signals, or other illumination will be permitted on any antenna supporting structure or ancillary appurtenances unless the applicant demonstrates that lighting is required by the Federal Aviation Administration (FAA), the Federal Communications Commission (FCC), or the Michigan Department of Transportation Bureau of Aeronautics (MDOT-BOA). No existing facility or antenna shall be modified in any way which would cause the structure to require lighting unless a SUP is first approved permitting such modification and lighting.
- (b) Site lighting shall comply with the lighting standards of this Ordinance.

**(7) Color**

Antenna supporting structures and ancillary appurtenances, including transmission lines, must maintain a galvanized grey finish or other contextual or compatible color as determined by the township, except as otherwise required by the FAA, the FCC, or the MDOT-BOA.

**(8) Fencing**

A fence of at least six (6) feet in height from finished grade must be installed in order to enclose the base of the antenna supporting structure and associated equipment enclosures. Access to the antenna supporting structure must be controlled by a locked gate. The fence must be constructed in accordance with §515 Fences and Walls, of this ordinance, except that barbed wire construction may be allowed at the discretion of the applicant.

**(9) Landscaping**

Wireless communication facilities and antenna shall be effectively screened to obscure views of the tower base, equipment shelter, security fencing, and/or guy wire anchors from adjacent uses and public rights-of-way. In locations where the visual impact of the tower will be minimal or where existing vegetation or topography provide an effective natural screening, the Planning Commission may modify or waive this requirement.

**(10) Signs**

- (a) Except as provided for in (b) and (c) below, no signs may be placed on antenna supporting structures, ancillary appurtenances, equipment enclosures, or on any fence or wall required by this section.
- (b) If high voltage is necessary for the operation of proposed wireless communications facilities, "High Voltage—Danger" and "No Trespass" warning signs not greater than one (1) square foot in area must be permanently attached to the fence or wall at intervals of at least forty (40) feet and upon the access gate.
- (c) A sign not greater than one (1) square foot in area must be attached to the access gate that indicates the following information:

- (i) Federal registration number, if applicable;
- (ii) Name of owner or contact person; and
- (iii) Emergency contact number.

**G. Additional Standards - Roof-Mounted and Surface-Mounted Antennae**

**(1) Generally**

Wireless communication antenna shall be considered a permitted accessory use when placed on or attached to any structure which constitutes a principal use, including existing wireless communication facilities, provided that all other applicable Ordinance requirements are complied with.

**(2) Screening and Placement**

- (a) Surface-mounted antennae must be placed no less than fifteen (15) feet from the ground and, where proposed for placement on a building, must be placed so that no portion of the antenna is less than three (3) feet below the roof line.
- (b) Roof-mounted structures must be screened by a parapet or other device in order to minimize their visual impact as measured from the lot line of the subject property. Roof-mounted facilities must be placed as near the center of the roof as possible.
- (c) Transmission lines must be camouflaged or otherwise shielded within an appropriate material that is the same color as, or a color consistent with, the building or structure to which they are attached.

**(3) Height**

- (a) Roof- and surface-mounted antenna, attachment devices, equipment enclosures, and/or any ancillary appurtenances may not extend above the roof line of the building upon which it is attached by more than twenty (20) feet.
- (b) Roof- and surface-mounted wireless structures with an overall height of greater than fifty (50) feet are considered antenna supporting structures subject to all provisions of § 792.E. Standards of this article.

**(4) Color**

Roof- and surface-mounted antennae and associated ancillary appurtenances must maintain a color that is the same as the surface to which they are attached, unless another color is more compatible within the context of the proposed facility and the surrounding environment.

**H. Additional Standards – Residential Facilities**

**(1) Generally**

Residential facilities shall be considered a permitted accessory use when placed on a parcel having a residential use which constitutes a principal use, provided that all other applicable Ordinance requirements are complied with.

**(2) Lease or Rent Prohibited**

Residential facilities shall be used only for noncommercial, recreational use by the occupant of the residence on which parcel the facility is located. The facility, or any space thereon, shall not be leased or rented to commercial users or otherwise used for commercial purposes.

**(3) Height**

Residential Facilities are limited to a maximum height of fifty (50) feet with FAA approval.

## I. Expert Review

- (1) Due to the complexity of the methodology or analysis required to review an application for a wireless communications facility, the township may require a technical review by a third-party expert, the costs of which are to be borne by the applicant and secured through a bond, letter of credit, or other surety deemed acceptable to the township. Failure by the applicant to submit a requested surety pursuant to this section will abate the pending application until payment in full is received by the township.
- (2) The expert review may address the following:
  - (a) The accuracy and completeness of submissions;
  - (b) The applicability of analysis techniques and methodologies;
  - (c) The validity of conclusions reached;
  - (d) Whether the proposed wireless communications facility complies with the applicable approval criteria set forth in this article; and
  - (e) Other matters deemed by the township to be relevant in determining whether a proposed wireless communications facility complies with the provisions of this division.
- (3) Based on the results of the expert review, the township may require changes to the applicant's application or required submissions.

## J. Abandonment

- (1) **Notice of abandonment:** In the event that all legally approved use of an antenna supporting structure or antenna has been discontinued for a period of six (6) months, the Zoning Administrator may make a preliminary determination of abandonment. In making such a determination, the Zoning Administrator may request documentation and/or affidavits from the property owner regarding the structure's usage, including evidence that use of the structure is imminent. Failure on the part of a property owner to provide updated contact information for the owner of the antenna supporting structure for four consecutive years will be presumptive evidence of abandonment. At such time as the Zoning Administrator reasonably determines that an antenna supporting structure or antenna has been abandoned, the Zoning Administrator will provide the property owner with a written notice of abandonment by certified mail.
- (2) **Declaration of abandonment:** Failure on the part of the property owner to respond to the notice of abandonment within ninety (90) days, or to adequately demonstrate that the structure is not abandoned, will be evidence of abandonment. Based on the foregoing, or on any other relevant evidence before the Zoning Administrator, the Zoning Administrator may make a final determination of abandonment, whereupon a declaration of abandonment will be issued to the property owner by certified mail.
- (3) **Removal of facility:** Within one hundred and twenty (120) days of a declaration of abandonment, the property owner must either:
  - (a) Reactivate the use of the structure as a wireless communications facility or transfer ownership of the structure to another owner who will make such use of the facility; or
  - (b) Dismantle and remove the facility.If the facility remains abandoned upon the expiration of one hundred and twenty (120) days, the township may enter upon the property and remove the facility, with all costs to be borne by the property owner.

**K. Variances—Additional Criteria**

No variance will be granted to the provisions of this division unless the Zoning Board of Appeals makes one of the following findings of fact:

- (1) That failure to grant the variance would prohibit or have the effect of prohibiting the provision of personal wireless services;
- (2) That failure to grant the variance would unreasonably discriminate among providers of functionally equivalent personal wireless services;
- (3) That the variance will obviate the need for additional antenna supporting structures;
- (4) That the variance is necessary to ensure adequate public safety and emergency management communications; or
- (5) That the variance is the minimum necessary in order for the applicant to provide broadcast services pursuant to an FCC-issued construction development approval.

# ARTICLE 8 NONCONFORMITY

## SECTION 800 PURPOSE

The purpose of this article is to protect the rights of property owners who have lawfully established, and continuously maintained in a lawful manner, a use, site, structure or lot prior to the adoption of this ordinance or prior to any amendment to this ordinance that otherwise renders such use, site, structure or lot unlawful. Such legal nonconformities shall be permitted to continue until they are lost or removed. Nonconformities shall not be enlarged upon, expanded or extended, except in compliance with this article, nor shall they be used as grounds for adding other structures or uses prohibited by the underlying zoning district.

Nothing in this ordinance prohibits the voluntary compliance with this or any future ordinance, regulation, or incentive.

## SECTION 810 GENERALLY

### A. Applicability

This article applies to any nonconformity. There are four categories of nonconformities as defined in Table 8-1. Nonconformity shall mean either Nonconforming Use, Nonconforming Site, Nonconforming Structure or Nonconforming Lot.

**Table 8-1  
Nonconformities**

Situation	Definition
Nonconforming uses (§ 811 Nonconforming Uses of this article)	A use that was lawfully established but that no longer complies with the use regulations applicable to the zoning district in which the property is located
Nonconforming site (§ 812 Nonconforming Sites of this article)	A lot, parcel, or development site that was lawfully established but that does not comply with the standards of Article 5, Development Standards, of this ordinance
Nonconforming structure (§ 813 Nonconforming Structures of this article)	A structure that was lawfully erected but that no longer complies with all the regulations applicable to the zoning district in which the structure is located
Nonconforming lot (§ 814 Nonconforming Lots of this article)	A lot that fails to meet the requirements for area, height, yards, buffer, or other bulk standards and regulations, generally applicable in the district because of a change in the applicable zoning district regulations, annexation, condemnation of a portion of the lot, or other governmental action

**B. Continuation**

On or after the effective date of this ordinance, a nonconformity that was lawfully operated, established, or commenced in accordance with the provisions of all ordinances, statutes, or regulations in effect at that time may continue subject to this article.

**C. Issued Land Use Permit at Effective Date**

Any land use permits issued prior to the effective date of this ordinance shall be valid, in accordance with its terms, even though not conforming to the provisions of this ordinance, provided that construction is commenced within six (6) months after the date of permit issuance and proceeds meaningfully until completion.

**D. Exception for Repairs Pursuant to Public Order**

Nothing in this article shall be deemed to prevent the strengthening or restoration to a safe condition of a building or structure in accordance with an order of a public official who is charged with protecting the public safety and who declares such structure to be unsafe and orders it to restoration to a safe condition, provided that such restoration is not otherwise in violation of the various provisions of this ordinance prohibiting the repair or restoration of partially damaged or destroyed buildings or structures.

**E. Loss of Nonconformity**

A legal nonconformity is lost by changing to conform to the ordinance or through vacancy, lack of operation or otherwise for twelve (12) or more successive calendar months. If lost, any future use of such premises shall be in conformity, in its entirety, with the provisions of this ordinance. Loss of a nonconformity shall terminate the right to continue the nonconformity.

**SECTION 811 NONCONFORMING USES**

**A. Applicability**

This section applies to the continuation, enlargement, or expansion of a nonconforming use.

**B. Continuance**

A legal nonconforming use of any structure may be continued, although such use does not conform to the provisions of this ordinance. Such use may be extended throughout the structure, provided that no structural alterations or additions to the structure are made.

**C. Enlargement or Expansion**

A conforming structure in which a nonconforming use is operated shall not be enlarged or expanded except as required by law or to comply with an order of the township building official.

**D. Change of Use Regulations**

**(1) Changes to Conforming Uses**

Any nonconforming use may be changed to a use conforming with the regulations established for the district in which the nonconforming use is located, provided, however, that a nonconforming use so changed shall not in the future be changed back to the former nonconforming use.

**(2) Changes to Other Nonconforming Uses**

A nonconforming use may be changed to another nonconforming use by order of the Zoning Board of Appeals, provided that the new use is determined to be more consistent with the spirit of this ordinance, the neighborhood, and the master plan than the nonconforming use which is

being replaced. The order may be made by the Zoning Board of Appeals only if it make findings in support of each of the following:

- (a) The new use will not be contrary to the public interest;
- (b) The new use will not substantially or permanently injure the appropriate use of adjacent conforming property in the same district;
- (c) The new use will be in harmony with the spirit and purpose of these regulations and the master plan goals, objectives, and policies;
- (d) The plight of the applicant for which the new use is sought is due to unique circumstances existing on the property and/or within the surrounding district;
- (e) Approval of the new use will not substantially weaken the general purposes of this article or the regulations established in this ordinance for the applicable zoning district;
- (f) The new use shall not require more off-street parking and loading space than the former nonconforming use unless additional adequate off-street parking and loading space is provided for the increment of the new nonconforming use as if the increment were a separate use;
- (g) The new use shall conform to all regulations established in Article 5, Development Standards, of this ordinance; and
- (h) The new use will not adversely affect the public health, safety, and welfare.

## **SECTION 812 NONCONFORMING SITES**

### **A. Applicability**

This section applies to the continuation, enlargement, or expansion of a nonconforming site.

### **B. Generally**

Various site design standards are established in Article 5, Development Standards, of this ordinance. Consequently, many development sites do not meet current requirements for such items as parking lot standards, landscaping, storm water requirements and other design specifications. This section requires that such nonconforming sites be brought into conformance with the site development standards prescribed by this ordinance.

### **C. Authority to Continue**

Any legal nonconforming site may be continued so long as it remains otherwise lawful subject to this section.

### **D. Extension**

#### **(1) Generally**

A nonconforming site on which there is a conforming use shall not be expanded or contracted unless the site is brought into conformance with the provisions of this ordinance.

#### **(2) Single Family Residential Exception**

A single-family residential structure that is located on a legally nonconforming site with respect to required yards, areas, or height may be structurally altered or enlarged, providing the portion of the structure that is altered or enlarged conforms with the provisions of this ordinance.

### **E. Relocations**

No structure shall be relocated within a nonconforming site until the site is brought into conformance with the provisions of this ordinance.



**F. Change in Use**

No existing structure located on a nonconforming site shall be changed from one use classification to another use classification until the site is brought into conformance with the provisions of this ordinance or a nonconforming site variance has been approved by the Zoning Board of Appeals.

**SECTION 813 NONCONFORMING STRUCTURES**

**A. Applicability**

This section applies to the continuation, repair, replacement, enlargement, or expansion of a nonconforming structure.

**B. Continuance of Nonconforming Structures**

Subject to all limitations in this section, and the provisions of § 810.D. Exception for Repairs Pursuant to Public Order of this article, any nonconforming structure may be occupied, operated, and maintained in a state of good repair, but no nonconforming structure shall be enlarged or extended unless in accordance with § 813.E. Enlargement or Expansion provided that such maintenance does not exceed an aggregate cost of thirty (30) percent of the assessed value of the structure.

**C. Repair and Maintenance of Nonconforming Structures**

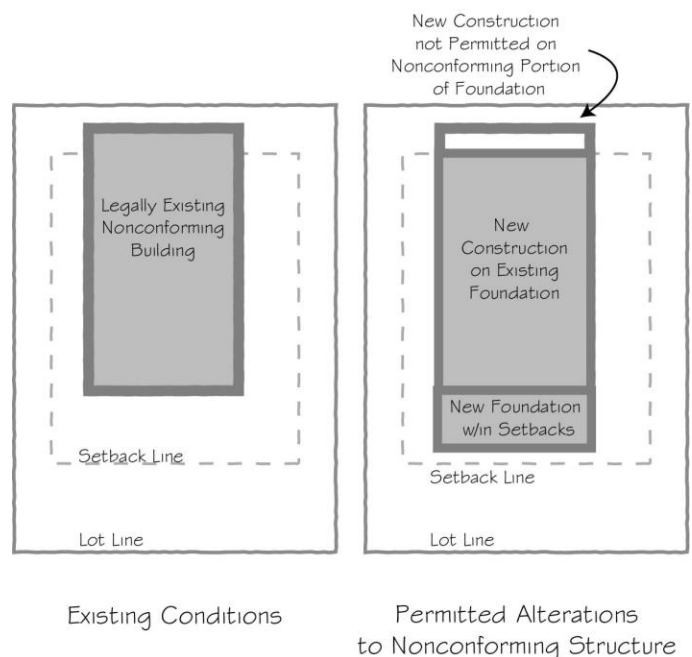
Nothing in this ordinance shall prevent the repair, reinforcement, improvement or rehabilitation of any nonconforming structure, or any part thereof, which results from wear and tear, deterioration, fire, windstorm, snowstorm, rainstorm, flood or other casualty damage, nor shall it prevent compliance with the provisions of the State Construction Code Act, relative to the maintenance of buildings or structures. Such repair and maintenance shall not be so extensive as to constitute a replacement of the structure by replacing an exterior wall(s). For the purposes of this subsection, the determination of whether proposed repairs and maintenance constitute replacement shall be made by the Zoning Administrator. The determination of the Zoning Administrator shall be appealable to the Zoning Board of Appeals provided that no approval under this subsection shall permit the replacement of a structure.

**D. Replacement of Damaged Nonconforming Structures**

Nothing in this ordinance shall prevent the replacement of any nonconforming building or structure damaged or destroyed by fire, windstorm, snowstorm, rainstorm, flood or other casualty damage beyond the control of the owner, provided such replacement utilizes the original structure footprint and does not increase the original usable floor area or volume of such structure. Such replacement shall commence within twelve (12) months of the damage or destruction.

**E. Enlargement or Expansion**

A nonconforming structure in which only permitted uses are operated may be enlarged or expanded provided that the area of nonconformance is not increased and provided further that compliance with all of the provisions



of this ordinance established for structures in the district in which the nonconforming structure is located. Such enlargement shall also be subject to all other applicable township ordinances.

#### **SECTION 814 NONCONFORMING LOTS**

##### **A. Applicability**

This section applies to the continuation, enlargement, or expansion of a nonconforming lot.

##### **B. Development**

Any lawfully established nonconforming lot may be developed and used for any permitted use specified by the zoning district in which the lot is located, whether or not such lot complies with the lot area and lot width requirements of this ordinance, provided that all other requirements of this ordinance are complied with. This section does not require the replatting or combination of lots under the same ownership.

#### **SECTION 815 TERMINATION OF NONCONFORMITIES**

##### **A. Violation of Article**

The violation of this article shall immediately terminate a nonconformity.

##### **B. Specific Acts of Termination**

Any of the following specific acts of termination shall immediately terminate a nonconformity:

- (1) Changing a nonconformity to a conforming use or a more conforming use pursuant to § 811.D.(2). This type of termination applies only to the nonconforming use existing prior to any change; or
- (2) Nonuse of a nonconformity for a period of twelve (12) or more successive calendar months.

## **ARTICLE 9**

### **SPECIFICATIONS FOR DOCUMENTS TO BE SUBMITTED**

#### **SECTION 950 GENERALLY**

All applications shall be properly signed and filed by the owner or, with the owner's specific written consent, a contract purchaser or owner's agent of a property included within the boundaries of a proposed project area, unless otherwise provided by this ordinance. All applications shall include the fee as established by the Township Fee Schedule, and escrow necessary to cover costs of processing the application. No part of any fee shall be refundable.

All applications shall include all data as required by this Article, by other applicable sections of this Zoning Ordinance, and any additional information found by Township elected or appointed officials to be pertinent to making a determination on an application.

#### **SECTION 951 CONCEPTUAL REVIEWS**

All applications shall include:

- A. The submittal requirements of § 950;
- B. Information and materials described within § 410.

#### **SECTION 952 ADMINISTRATIVE DEVELOPMENT APPROVALS**

All applications shall include:

- A. The submittal requirements of § 950;
- B. For Grading and Land Disturbance, an engineered plan per § 415.A(2);
- C. For Land Use Permits, plans and documentation per § 416.B.

#### **SECTION 953 ZONING ORDINANCE AMENDMENTS**

All applications shall include:

- A. The submittal requirements of § 950;
- B. For zoning map amendments, a written impact statement of the application as it relates to § 421.E;
- C. For zoning text amendments;
  - (1) A written impact statement of the application as it relates to § 421.F;
  - (2) Specific text language amendment in an underline and strike-out format;
  - (3) A description of why the text amendment is needed and the public purpose served by the amendment.

#### **SECTION 954 CONDITIONAL REZONING AMENDMENTS**

All applications shall include:

- A. The submittal requirements of § 950;
- B. A written impact statement of the application as it relates to § 421.E;
- C. A written offer of Conditions as described in § 422.B(3).
- D. A site development plan including the information described in § 956.

#### **SECTION 955 SPECIAL USE PERMITS**

All applications shall include:

- A. The submittal requirements of § 950;
- B. A written impact statement of the application as it relates to § 423.E.
- C. A site development plan including the information described in § 956.
- D. If deemed necessary by the Planning Commission, a Traffic Impact report as described in § 404.

**SECTION 956 SITE PLANS**

All applications shall include:

- A. The submittal requirements of § 950;
- B. Data Requirements. Applications for approval under this subsection shall submit the information and data specified in Table 956, Data Submittal Requirements, of this section. All plans shall be drawn at a scale of 1"=100' or less. In addition to the requirements set forth in table 956, Data Submittal Requirements, of this section, the approval authority may direct that additional information be provided if it is deemed to be necessary for the approval authority to determine if a proposed site plan conforms to the requirements of this ordinance.

**Table 956 – Site Plan Review Data Submittal Requirements**

<i>Required Site Plan Element</i>	<b>Site Diagram</b>	<b>Administrative Site Plan / Site Development Plan</b>
<b><i>A. Basic Information</i></b>		
1. Applicant's name, address, telephone number and signature	●	●
2. Property owner's name, address, telephone number and signature	●	●
3. Proof of property ownership	●	●
4. Whether there are any options or liens on the property	●	●
5. A signed and notarized statement from the owner of the property that the applicant has the right to act as the owner's agent	●	●
6. The address and/or parcel number of the property, complete legal description and dimensions of the property, setback lines, gross and net acreages and frontage	●	●
7. A vicinity map showing the area and road network surrounding the property		●
8. Name, address and phone number of the preparer of the site plan	●	●
9. Project title or name of the proposed development	●	●
10. Statement of proposed use of land, project completion schedule, any proposed development phasing	●	●
11. Land uses and zoning classification on the subject parcel and adjoining parcels	●	●
12. Seal of the registered engineer, architect, landscape architect, surveyor, or planner who prepared the plan, as well as their name, address and telephone number		●
<b><i>B. Site Plan Information</i></b>		
1. North arrow, scale, and date of original submittal and last revision.	●	●

<i>Required Site Plan Element</i>	<b>Site Diagram</b>	<b>Administrative Site Plan / Site Development Plan</b>
<b><i>B. Site Plan Information (continued)</i></b>		
2. Boundary dimensions of natural features		●
3. Natural features such as woodlots, water bodies, wetlands, high risk erosion areas, slopes over twenty-five percent (25%), beach, drainage, and similar features.		●
4. Proposed alterations to topography and other natural features		●
5. Existing topographic elevations at two foot intervals except shown at five foot intervals where slopes exceed 18%		●
6. Soil erosion and sediment control measures as required by the Grand Traverse County Soil Erosion Department.	●	●
7. The location, height and square footage of existing and proposed main and accessory buildings, and other existing structures		●
8. Location and specifications for any existing or proposed (above or below ground) storage facilities for any chemicals, salts, flammable materials, or hazardous materials. Include any containment structures or clear zones required by county, state or federal government authorities.		●
9. Proposed finish floor and grade line elevations of any structures. <i>*Required only for habitable construction within the floodplain on site diagrams and administrative site plans.</i>	<i>See note*</i>	●
10. Existing and proposed driveways, including parking areas	●	●
11. Neighboring driveways and other vehicular circulation features adjacent to the site		●
12. A dimensional plan indicating the location, size and number of parking spaces of the on-site parking areas, and shared parking areas	●	●
13. Identification and dimensions of service lanes and service parking, snow storage areas, loading and unloading and docks		●
14. Proposed roads, access easements, sidewalks, bicycle paths, and other vehicular and pedestrian circulation features within and adjacent to the site		●
15. Location of and dimensions of curb cuts, acceleration, deceleration and passing lanes		●
16. Location of neighboring structures that are close to the parcel line or pertinent to the proposal		●
17. Location of water supply lines and/or wells	●	●
18. Location of sanitary sewer lines and/or sanitary sewer disposal systems	●	●

<i>Required Site Plan Element</i>	<b>Site Diagram</b>	<b>Administrative Site Plan / Site Development Plan</b>
<b><i>B. <u>Site Plan Information (continued)</u></i></b>		
19. Location, specifications, and access to a water supply in the event of a fire emergency		●
20. Sealed (2) stormwater plans including the location and design of storm sewers, retention or detention ponds, swales, waste water lines, clean out locations, connection points and treatment systems		●
21. A utility plan including the location of all other utilities on the site including but not limited to natural gas, electric, cable TV, telephone and steam		●
22. A sign plan indicating the location, size and specifications of all signs and advertising features, including cross sections		●
23. A lighting plan including exterior lighting locations with area of illumination illustrated by point values on a photometric plan, Kelvin rating, as well as the type of fixtures and shielding to be used		●
24. Proposed location of any open spaces, landscaping and buffering features such as buffer areas, vegetation belts, fences, walls, trash receptacle screening, and other screening features with cross sections shown		●
25. A Landscape plan and table identifying the species, size of landscape materials, and number proposed, compared to what is required by the Ordinance. All vegetation to be retained on site must also be indicated, as well as, its typical size by general location or range of sizes as appropriate		●
26. Statements regarding the project impacts on existing infrastructure (including traffic capacity, schools, and existing utilities, and on the natural environment on and adjacent to the site)		●
27. Changes or modifications required for any applicable regulatory agencies' approvals		●

**SECTION 957 PLANNED UNIT DEVELOPMENTS**

All applications shall include:

- A. The submittal requirements of § 950;
- B. A written impact statement of the application as it relates to § 423.E.
- C. A written impact statement of the application as it relates to § 426.A. and § 426.E.
- D. A site development plan including the information described in § 956.

**SECTION 958 PLANNED UNIT RESIDENTIAL DEVELOPMENTS**

All applications shall include:

- A. The submittal requirements of § 950;
- B. A written impact statement of the application as it relates to § 423.E.
- C. A written impact statement of the application as it relates to § 427.A. and § 427.C.
- D. A site development plan including the information described in § 956.

**SECTION 959 OPEN SPACE PRESERVATION OPTIONS**

All applications shall include:

- A. The submittal requirements of § 950;
- B. A written impact statement of the application as it relates to § 428.A. and § 428.D.
- C. A site development plan including the information described in § 956.

**SECTION 960 GROUP HOUSING**

All applications shall include:

- A. The submittal requirements of § 950;
- B. A written impact statement of the application as it relates to § 423.E.
- C. A written impact statement of the application as it relates to § 430.
- D. A site development plan including the information described in § 956.

## **ARTICLE 10 ADMINISTRATION**

### **SECTION 1010 AUTHORITY**

#### **A. Township Board**

The Township Board shall render final decisions pertaining to this ordinance and applications for development approval where such authority is assigned pursuant to this ordinance.

#### **B. Planning Commission**

The Planning Commission shall render final decisions pertaining to the enactment or development of the master plan, any neighborhood plan, and applications for development approval where such authority is assigned pursuant to this ordinance.

#### **C. Zoning Board of Appeals**

The Zoning Board of Appeals shall render final decisions pertaining to the interpretation, variance or administration of this ordinance and applications for development approval where such authority is assigned pursuant to this ordinance.

#### **D. Director of Planning**

The Director of Planning, or his/her assistants and deputies insofar as they may be charged by the Director of Planning, shall render final decisions pertaining to interpretations of this ordinance and applications for development approval where such authority is assigned pursuant to this ordinance.

#### **E. Zoning Administrator**

The Zoning Administrator, or his/her assistants and deputies insofar as they may be charged by the Director of Planning, shall render final decisions pertaining to interpretations of this ordinance and applications for development approval where such authority is assigned pursuant to this ordinance and where this ordinance does not otherwise assign authority. Unless specifically provided for in this ordinance, under no circumstances shall the Zoning Administrator be permitted to make changes to this ordinance or vary its terms in carrying out the duties of this ordinance.

### **SECTION 1020 PLANNING COMMISSION**

The Planning Commission is established pursuant to the Michigan Planning Enabling Act, Public Act 33 of 2008, MCL 125.3801 *et seq.*, and the Michigan Zoning Enabling Act, Public Act 110 of 2006, MCL 125.3101 *et seq.* The composition, powers, duties and limitations of the Planning Commission have and shall continue to be established by separate ordinance of the Township Board.

#### **A. Quorum**

The Planning Commission shall consist of seven members. A quorum shall consist of four members of the Planning Commission. The chairman shall be counted as any other member when establishing a quorum.

#### **B. Voting**

An affirmative vote of the majority of the members of the Planning Commission is required to approve any part of the master plan or amendments to the plan. Unless otherwise required by statute, other actions or motions placed before the Planning Commission may be adopted by a majority vote of the members present and voting, as long as a quorum is present.



In instances where the Planning Commission is required to submit a recommendation to the Township Board, has twice heard and considered an application and is unable to reach a majority vote, the Planning Commission may submit a report instead of a recommendation to the Township Board.

**C. Rules of Procedure**

The Planning Commission shall adopt and shall maintain rules of procedure. These rules shall be available for public inspection at the office of the Township Clerk.

**D. Staff**

The Director of Planning and his/her assistants and deputies, insofar as they may be charged by the Director of Planning, shall serve as staff to the Planning Commission and the Township Board except where otherwise provided by this article. The Zoning Administrator and his/her assistants and deputies insofar as they may be charged by the Director of Planning, shall serve as a liaison to the Planning Commission.

**SECTION 1030 ZONING BOARD OF APPEALS**

The Zoning Board of Appeals is established pursuant to the Michigan Zoning Enabling Act, Public Act 110 of 2006, MCL 125.3101 *et seq.* The composition, powers, duties and limitations of the Zoning Board of Appeals shall be established by separate ordinance of the Township Board.

**A. Quorum**

The Zoning Board of Appeals shall consist of five members and up to two alternate members. A quorum shall consist of three members of the Zoning Board of Appeals. The chairman shall be counted as any other member when establishing a quorum.

**B. Voting**

An affirmative vote of the majority of the members of the Zoning Board of Appeals is required to take final action on any matter.

**C. Rules of Procedure**

The Zoning Board of Appeals shall adopt and maintain rules of procedure. Those rules shall be available for public inspection at the office of the Township Clerk.

**D. Staff**

The Zoning Administrator and his/her assistants and deputies, insofar as they may be charged by the Zoning Administrator, shall serve as staff to the Zoning Board of Appeals. The Director of Planning and his/her assistants and deputies, insofar as they may be charged by the Director of Planning, shall serve as a liaison to the Zoning Board of Appeals.

**SECTION 1040 ADMINISTRATIVE OFFICIALS**

**A. Director of Planning**

A Director of Planning shall be appointed by, for such term, and subject to such conditions, as shall be determined by the Township Board. A Deputy Planner may be appointed by, for such term, and subject to such conditions, as shall be determined by the Township Board. In the event of the resignation, death, disability, extended absence or disqualification of the Director of Planning, the Deputy Planner shall assume the duties and responsibilities of the Director of Planning until the

Director of Planning resumes his or her duties or a new Director of Planning is appointed by the Township Board.

**B. Zoning Administrator**

A Zoning Administrator shall be appointed by, for such term, and subject to such conditions, as shall be determined by the Township Board. A Deputy Zoning Administrator may be appointed by, for such term, and subject to such conditions, as shall be determined by the Township Board. In the event of the resignation, death, disability, extended absence or disqualification of the Zoning Administrator, the Deputy Zoning Administrator shall assume the duties and responsibilities of the Zoning Administrator until the Zoning Administrator resumes his or her duties or a new Zoning Administrator is appointed by the Township Board.

**C. Interim Zoning Administrator**

In the event of the resignation, death, disability, extended absence or disqualification of the Zoning Administrator, and absent a Deputy Zoning Administrator, the Director of Planning shall assume the duties and responsibilities of the Zoning Administrator until the Zoning Administrator resumes his or her duties or a new Zoning Administrator is appointed by the Township Board.

## **ARTICLE 11 LEGAL STATUS**

### **SECTION 1100 VALIDITY AND SEVERABILITY**

If any clause, sentence or provision of this ordinance is for any reason declared by a court of competent jurisdiction to be invalid, the same shall not affect the validity of the ordinance as a whole or any part thereof, other than the clause, section or provision so declared to be invalid. All the remaining clauses, sections and provisions of this ordinance shall remain in full force and effect until repealed notwithstanding that one (1) or more provisions of this ordinance shall have been declared to be invalid.

### **SECTION 1110 CONFLICT WITH OTHER LAWS**

When the provisions of this ordinance impose higher standards than are required in any other statute, ordinance, or regulation, the provisions of this Ordinance shall govern. When the provisions of any other statute, ordinance, or regulation impose higher standards than are required by the provisions of this ordinance, the provisions of that statute, ordinance, or regulation shall govern.

### **SECTION 1120 REPEAL OF EXISTING ZONING REGULATIONS**

The existing zoning regulations entitled, "Garfield Township Zoning Ordinance," as passed on the 14<sup>th</sup> day of February, 1974 and as subsequently amended, are repealed. The adoption of this ordinance, however, shall not affect nor prevent any pending or future prosecution of, or action to abate, an existing violation of prior regulations.

### **SECTION 1130 EFFECTIVE DATE**

This ordinance shall become effective from and after the date of passing hereof.

### **SECTION 1140 PERIOD OF EFFECTIVENESS**

This ordinance shall remain in full force and effect henceforth unless repealed.