

Pere Marquette Charter Township

Mason County, Michigan

Zoning Ordinance



**RESTATED ZONING ORDINANCE
PERE MARQUETTE CHARTER TOWNSHIP
MASON COUNTY, MICHIGAN**

ORDINANCE NO. 144

EFFECTIVE: AUGUST 25, 2019

AN ORDINANCE TO REPEAL CHAPTER 109, ZONING, OF THE PERE MARQUETTE CHARTER TOWNSHIP CODE OF ORDINANCES, AS AMENDED AND TO ADOPT THE FOLLOWING RESTATED CHAPTER 109, ZONING, PREPARED IN ACCORDANCE WITH THE REQUIREMENTS OF THE MICHIGAN ZONING ENABLING ACT, BEING ACT 110 OF 2006 AS AMENDED.

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ARTICLE 1

PURPOSE, SCOPE & VALIDITY

1.01 TITLE

This Ordinance shall be known as, and may be cited as, "The Pere Marquette Charter Township Zoning Ordinance."

1.02 PURPOSE

This Ordinance is based on the Pere Marquette Charter Township Comprehensive Plan and has as its general purposes the following:

- a) The regulation of land development.
- b) The establishment of districts which regulate use of land and structures.
- c) Meeting the needs of the state's citizens for food, fiber, energy, and other natural resources, places of residence, recreation, industry, service, and other uses of land.
- d) Insuring that use of land shall be situated in appropriate locations and relationships.
- e) Limiting the inappropriate overcrowding of land and congestion of population, transportation systems, and other public facilities.
- f) Facilitating adequate and efficient provision for transportation systems, sewage disposal, water, energy, education, recreation, and other public services and facility requirements.
- g) Promoting the public health, safety and welfare.
- h) Facilitating implementation of the Pere Marquette Charter Township Comprehensive Plan.

1.03 LEGAL BASIS

This Ordinance is enacted pursuant to the Michigan Zoning Enabling Act, PA 110 of 2006 as amended.

1.04 SCOPE

The provisions of this Ordinance shall be considered to be the minimum requirements necessary for the promotion of the public health, morals, safety, comfort, convenience or general welfare. The Ordinance shall not repeal, abrogate or annul, or in any way impair or interfere with existing provisions of other laws, ordinances or regulations, except those repealed herein by specific reference, or with private restrictions placed upon property by deed or other private agreement, or with restrictive covenants running with the land, to which the Township is a party where this Ordinance imposed greater restrictions, limitations or requirements upon pre-existing the provisions of this Ordinance shall control.

Purpose, Scope & Validity	Definitions	General Provisions	Zoning Districts	Off Street Parking
Development Review • Site Plan Review • Special Land Use • Site Condominiums	Signs	Non-Conforming	Zoning Board of Appeals	
	Administration/Enforcement	Schedule of District Regulations	Zoning Map	

Article 1- Purpose, Scope, and Validity
Pere Marquette Charter Township Ordinance

1.05 VALIDITY AND SEVERABILITY

This Ordinance and the various parts, chapters, sections, subsections, paragraphs, sentences and clauses are hereby declared to be severable. If any part, chapter, section, subsection, paragraph, sentence or clause is adjudged unconstitutional or invalid, it is hereby provided that the remainder of this Ordinance shall not be affected thereby

1.06 REPEAL OF PRIOR ORDINANCE

The Zoning Ordinance previously adopted by Pere Marquette Charter Township which became effective on June 1, 1994 and all amendments there to, are hereby repealed. The repeal of said Ordinance and its amendments does not affect or impair any act done, offense committed, or right accruing or accrued, or acquired, or liability, penalty, forfeiture, or punishment incurred prior to the time enforced, prosecuted or inflicted.

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ARTICLE 2

DEFINITIONS

2.00 RULES APPLYING TO TEXT

The following listed rules of construction shall apply to the text of this ordinance.

- a) The particular shall control the general except with respect to the definitions which follow the headings which title a chapter, section or subsection are for convenience only and are not to be considered in any constriction or interpretation of this ordinance or considered as enlarging or restricting the term and provisions of this ordinance in any respect.
- b) The word "shall" is always mandatory and not discretionary. The word "may" is permissive. Unless the context clearly indicates to the contrary;
 - 1) Words used in the present tense shall include the future tense;
 - 2) Words used in the singular number shall include the plural number; and singular;
 - 3) Words used in the plural number shall include the singular number.
- c) A building or structure includes any and all parts thereof.
- d) The word "person" includes an association, partnership, joint venture, corporation, trust, municipal or public entity, or equivalent entity or a combination of any of them, as well as a natural person.
- e) The word "used" or "occupied", as applied to any land, building or structure, shall be construed to include the words "intended", "arranged", or "designed to be used".
- f) The word "Township" means Pere Marquette Charter Township.
- g) The words "erect" or "erection", as applied to any building or structure, shall be construed to include the words "built", "constructed", "reconstructed", "moved upon" or any physical operation or work on the land on which the building or structure is to be built, constructed, or moved upon, such as excavation, filling, drainage or similar activities.
- h) The words "Township Board or Board" shall mean the Pere Marquette Charter Township Board.
- i) The words "Planning Commission" shall mean the Pere Marquette Charter Township Planning Commission.
- j) The words "Board of Appeals" shall mean the Zoning Board of Appeals of Pere Marquette Charter Township.
- k) The words "Building Inspector" shall mean the building official and authorized inspector of Pere Marquette Charter Township.

Purpose, Scope & Validity	Definitions	General Provisions	Zoning Districts	Off Street Parking
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l) The words "legal record" shall mean the circumstances where the legal description of a lot or parcel of land has been recorded as part of a document on record in the office of the Register of Deeds, Mason County, Michigan.

m) For the purpose of their use in the ordinance, words or terms not defined herein shall be considered to be defined in accordance with their common or standard definition.

n) References to public acts are references to the Public Acts of Michigan. (For example, a reference to Public Act No. 110 of 2006 is a reference to Act No. 110 of the Public Acts of Michigan of 2006.) Any reference to a public act, whether by act number or by short title, is a reference to such act as amended.

2.01 DEFINITIONS "A"

Accessory Building or Structure: A structure or building on the same lot or parcel of land as the main structure or building, the use of which is, or is intended to be, subordinate or incidental to that of the main building or structure.

Accessory Use: A use which is incidental and subordinate to the main use of any land, lot, parcel, building or structure.

Adult Day Care Home: A dwelling unit in which less than seven persons 18 years or older are provided supervision, personal care and protection for periods of less than 24 hours a day, operated by a person who permanently resides in the dwelling unit as a member of the household.

Adult Foster Care Congregate Facility: An adult foster care facility with the approved capacity to receive more than 20 adults who shall be provided foster care.

Adult foster care facility: A governmental or nongovernmental establishment licensed under Public Act 218 of 1979 (the Act) as amended, that provides foster care to adults. Subject to Section 26a (1) of the Act, adult foster care facility includes facilities and foster care family homes for adults who are aged, mentally ill, developmentally disabled, or physically disabled who require supervision on an ongoing basis but who do not require continuous nursing care. Adult foster care facility does not include any of the following:

(a) A nursing home licensed under article 17 of the public health code, 1978 PA 368, MCL 333.20101 to 333.22260.

(b) A home for the aged licensed under article 17 of the public health code, 1978 PA 368, MCL 333.20101 to 333.22260.

(c) A hospital licensed under article 17 of the public health code, 1978 PA 368, MCL 333.20101 to 333.22260.

(d) A hospital for the mentally ill or a facility for the developmentally disabled operated by the department of community health under the mental health code, 1974 PA 258, MCL 330.1001 to 330.2106.

(e) A county infirmary operated by a county department of social services or family independence agency under section 55 of the social welfare act, 1939 PA 280, MCL 400.55.

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(f) A child caring institution, children’s camp, foster family home, or foster family group home licensed or approved under 1973 PA 116, MCL 722.111 to 722.128, if the number of residents who become 18 years of age while residing in the institution, camp, or home does not exceed the following:

- (i) Two, if the total number of residents is 10 or fewer.
- (ii) Three, if the total number of residents is not less than 11 and not more than 14.
- (iii) Four, if the total number of residents is not less than 15 and not more than 20.
- (iv) Five, if the total number of residents is 21 or more.

(g) A foster family home licensed or approved under 1973 PA 116, MCL 722.111 to 722.128, that has a person who is 18 years of age or older placed in the foster family home under section 5(7) of 1973 PA 116, MCL 722.115.

(h) An establishment commonly described as an alcohol or a substance abuse rehabilitation center, a residential facility for persons released from or assigned to adult correctional institutions, a maternity home, or a hotel or rooming house that does not provide or offer to provide foster care.

(i) A facility created by 1885 PA 152, MCL 36.1 to 36.12.

Adult Foster Care Family Home: A dwelling unit with the approved capacity to receive not more than six adults who shall be provided foster care for five or more days a week and for two or more consecutive weeks. The adult foster care family home licensee shall be a member of the household and an occupant of the dwelling unit.

Adult Foster Care Large Group Home: An adult foster care facility with the approved capacity to receive at least 13 but not more than 20 adults who shall be provided foster care.

Adult Foster Care Small Group Home: An adult foster care facility with the approved capacity of not more than 12 adults who shall be provided foster care.

Alley: A dedicated or publicly-controlled right-of-way, other than a street, providing a secondary means of vehicular access to abutting lots or parcels of land and which is not intended for general traffic circulation.

Altered or Alteration: Any change, addition or modification to a building or a structure, except for replacement of roofing and siding or modifications deemed to be re-decorating, which involves any change in the supporting members, bearing walls, columns, posts, beams, girders or roof structure; any architectural change of the interior or exterior of a building or structure which may affect its structural integrity, or any modification which alters the exterior dimensions of said building or structure.

Antenna: A device designed to receive video programming services via broadband radio service (wireless cable) or to receive or transmit fixed wireless signals other than via satellite or a device designed to receive local television broadcast signals.

Apartment: A room or suit of rooms, including bath, toilet or culinary accommodations, in a

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multiple dwelling, intended for use as a dwelling or residence, for any period of time.

Automobile body: Any motor vehicle which is unable to be driven upon the highway under its own power and/or which lacks all of the necessary component parts to make it operative, serviceable, and/or licensed as a motor vehicle.

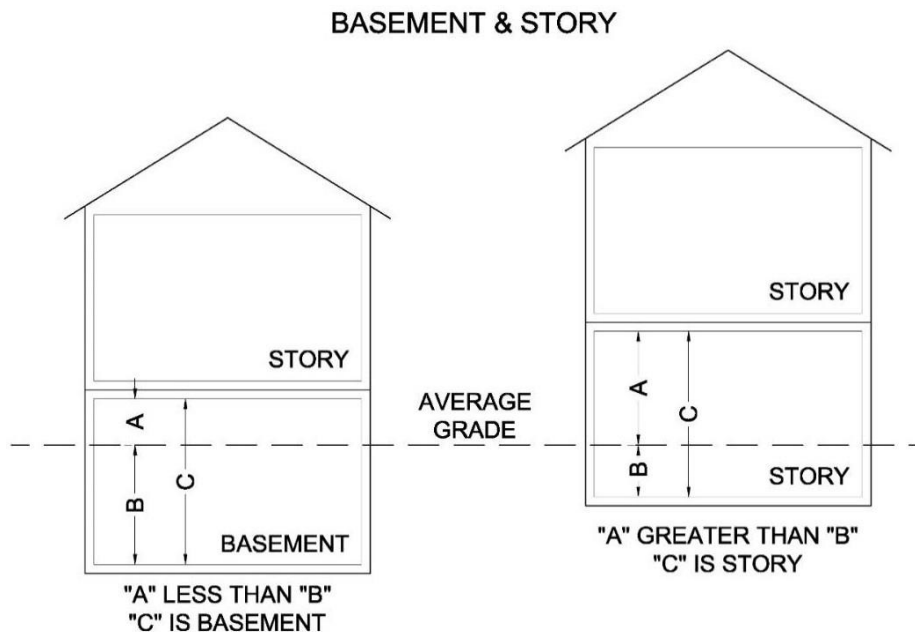
Automotive repair (general): The general mechanical repair, including overhaul and reconditioning of motor vehicle engines, transmission and other mechanical repairs, but not including collision services, such as body or frame repair.

Automotive repair (major/body): The general repair, rebuilding, or reconditioning of engines, motor vehicles or trailers, collision service; including body repair and frame straightening, painting, upholstery, vehicle steam cleaning, and undercoating rustproofing.

2.02 DEFINITONS “B”

Basement: That portion of a building which has its floor below grade which has a majority of its floor to ceiling height below grade level. *See Figure 2-1*

Figure 2-1



Bed and Breakfast: As used in this section "Bed and Breakfast" means a single-family residential structure that has eight or fewer sleeping rooms, including sleeping rooms occupied by the

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Article 2- Definitions

Pere Marquette Charter Township

homeowner, one or more of which are available for a rental period of less than 30 days and in which breakfast or other meals are served to its transient tenants.

Berm: Means a mound of earth graded, shaped and improved with landscaping in such a fashion as to be used for visual or audible screening purposes.

Bluff: The top of a steep bank rising from the ordinary high-water mark on a lot or parcel.

Buildable area: The buildable area of a lot is the space remaining after the minimum setback and open space requirements of the ordinance have been complied with.

Buildable land: As used in section 3.46, means that portion of land in a master parcel which does not include any wetlands, critical dune areas, high risk erosion areas, floodplains or other land areas, on which structures or accessory uses, including without limitation septic systems, are prohibited under any federal, state or local law, ordinance or regulation.

Building: A structure, temporary or permanent, having a roof supported by columns or walls

Building envelope: The area of a condominium unit within which the principal building or structure is to be constructed, together with any accessory structures, as described in the master deed for the site condominium project. In a site condominium project, the building envelope refers to the area of each condominium unit within which the detached single-family dwelling and any accessory structure is to be built.

Building Height: The vertical distance measured from the established grade to the highest point of the roof for flat roofs; to the deck line for mansard roofs; and to the mean height (between eaves and ridges) for gable, hip, gambrel, and A-frame roofs. *See Figure 2-2.*

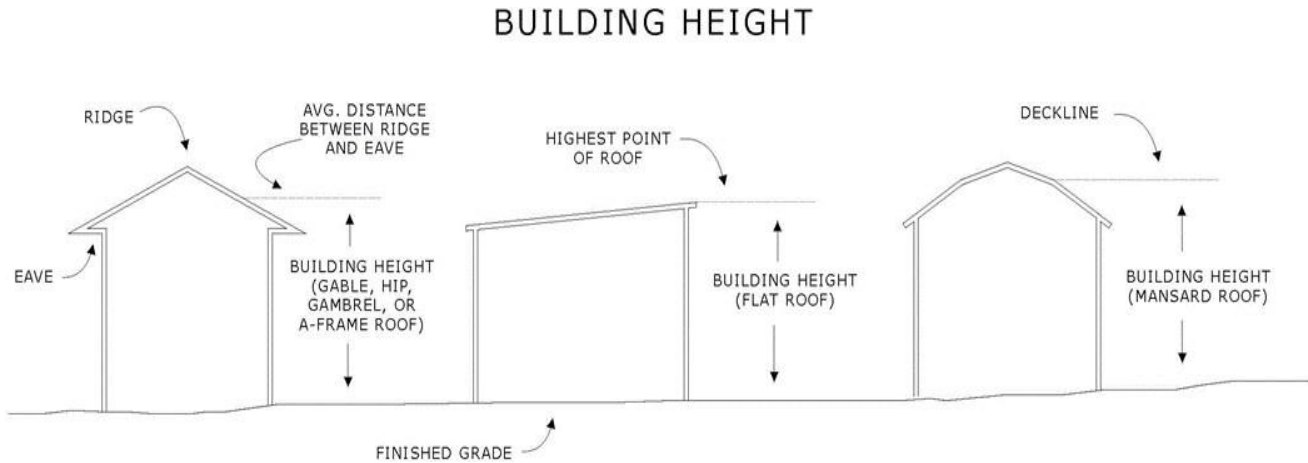
Building, main or principal: A building in which is conducted the principle or main use of the lot on which it is situated.

Building site: As related to a site condominium project, shall be the area within the site condominium unit itself, including the building envelope and the area adjacent to the building envelope within the site condominium unit, together with a contiguous and appurtenant limited common element.

Building Line: The minimum horizontal distance set forth in the Township Zoning Ordinance for each district as measured from the front, rear and side lot lines which establishes the area within which buildings and structures must be erected or placed. Setback and Building Line are the same as Required Yard as defined herein.

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Figure 2-2



2.03 DEFINITIONS “C”

Cabin: A building, tent or similar structure for temporary or seasonal occupancy but excluding motels, hotels or boarding homes.

Camp or campground: A temporary or permanent buildings, tents, or other structures together with their appurtenances pertaining thereto, established or maintained as temporary living quarters, operated continuously for a period of five days or more for recreation, religious, education, or vacation purposes.

Carport: Any roofed structure or shelter or a portion of a building open on two or more sides which may or may not be attached to a dwelling, other than an attached or detached garage, used for the purpose of storing motor vehicles.

Child Care Center: Any facility other than a dwelling unit in which one or more minor children are given care and supervision for periods of less than 24 hours per day on a regular basis. Child care centers do not include Family or Group Child Care Homes, or schools. Child care and supervision provided as an accessory use, while parents are engaged or involved in the principal use of the property, such as a nursery operated during church services or public meetings, or by a fitness center or similar operation, shall be considered accessory to such principal use and shall not be considered to be a child care center.

Clinic: An institution for the medical treatment of humans or, in the case of veterinary clinic, the medical treatment of small animals all dealing chiefly with outpatients

Club or lodge: The room, building or other facilities used for the meetings of a group of people organized for a common purpose such as a fraternal organization or society.

Common open space: Any area or space other than required yard areas which is unobstructed and unoccupied by buildings, roads, or other manmade structures and is readily accessible to all those

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for whom it is required.

Community sanitary sewer: A complete system privately owned, maintained and operated to properly collect, treat and dispose of wastewater from all of the individual dwelling units or other buildings within an open space development project, including all pumps, pipes, laterals, controls, valves, treatment units, and other equipment necessary to collect, treat and dispose of wastewater at a central location.

Community water service: All aspects of a complete system privately owned, maintained and operated to draw water from a groundwater source, including all pumps, pipes, laterals, controls, valves, and other equipment necessary to provide potable domestic water to all of the individual dwelling units or other buildings within an open space development project from a central location or water source.

Comprehensive Plan: The Pere Marquette Charter Township Comprehensive Plan.

Conditional use: A permitted use which by its general nature may not be located within a given zoning district but as a specific use would be permitted providing all conditions which have been imposed by this ordinance have been complied with.

Condominium Act: Public Act 59 or 1978, as amended.

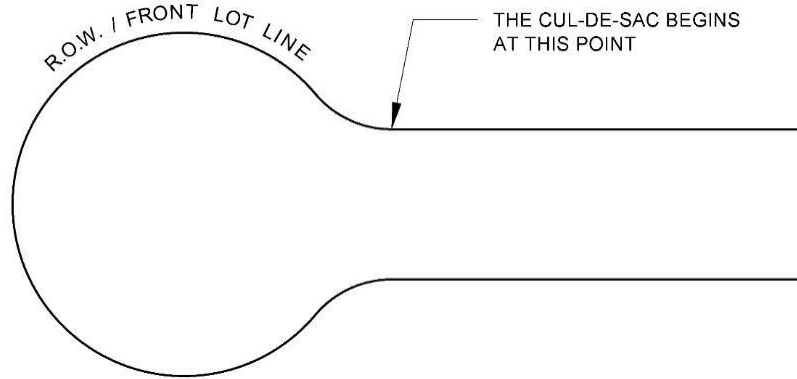
Condominium / Site Condominium Project: A plan or project consisting of not less than two condominium units or two site condominium units established in conformance with the Condominium Act.

Condominium Unit: That portion of the condominium project designed and intended for separate ownership and use, as described in the Master Deed of the condominium project, within which a building or other improvement may be constructed by the condominium unit owner.

Cul-de-sac: That portion of a dead-end public or private street which consists of a circular or semi-circular section of street which allows for a vehicle turn-around. *See Figure 2-3.*

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Figure 2-3



2.04 DEFINITONS “D”

Decorative device: A three-dimensional ornamental design, object or structure, used to achieve artistic or attractive effect. A decorative device shall not be a sign.

Deck: An uncovered platform which extends above grade.

Development: Any manmade change to improved or unimproved real estate for any purpose, including but not limited to construction of buildings or other structures, mining, dredging, filling, paving or excavation.

Development Plan: Drawings and specifications of a proposed development or land use showing topography, location and dimensions of buildings and structures, all non-enclosed areas including streets, parking, loading and unloading, handling facilities, storm drainage, floor plans, a detailed statement of the proposed uses and other relevant information, data, and documentation as may be required by competent authority.

District: A portion of the incorporated area of the township within which certain regulations and requirements or various combinations thereof apply under the provisions of this ordinance.

Drive-Through; Drive-Through Facility: A business establishment or use so developed that it provides a driveway approach or parking spaces for motor vehicles to serve patrons through a window or other building opening while patrons remain in the motor vehicle either exclusively or in addition to service within a building or structure.

Drive-In: A business establishment designed or operated so that services are rendered or products are delivered to customers in or on vehicles as opposed to delivery from within a building or structure.

Driveway: An access way for motor vehicles connecting a street and the lot or lots abutting a street. A driveway is not a private street.

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Dwelling Unit: A building, or portion of a building, designed for use and occupancy by one family for living and sleeping purposes, with housekeeping facilities.

Dwelling, Efficiency: A dwelling unit of not more than one room in addition to a kitchen and a bathroom.

Dwelling, Multiple-Family: A building designed exclusively for and containing three or more dwelling units

Dwelling, Single-Family: A detached building designed exclusively for and containing one dwelling unit only.

Dwelling, Two-Family: A detached building designed exclusively for and containing two dwelling units only. A two-family dwelling is also a duplex.

Dwelling Unit, Attached: A dwelling unit attached to one or more dwelling units by common major structural elements

Dwelling Unit, Detached: A dwelling unit which is not attached to any other dwelling unit by any means.

Dwelling Unit, Modular: A prefabricated transportable dwelling unit designed to be incorporated at a building site into a structure on a permanent foundation to be used for residential purposes and which meets the requirements of the building code of the Township.

2.05 DEFINITIONS “E”

Earth Change: An artificial change in the natural cover or topography of land, including cut and fill activities, which may result in or contribute to soil erosion or sedimentation of the waters of the state.

Erected: Includes built, constructed, reconstructed, moved upon, or any other physical operation on the premises required for the building. Excavations, fill, drainage, and the like, shall be considered part of erection.

Erosion control device: Any structural or physical method used to control shoreland erosion processes. Erosion control devices include, but are not limited to, structures such as groins, seawalls, revetments or beach walls, and may also include any type of beach nourishment by filling.

Essential Public Service Equipment: Wires, mains, drains, sewers, pipes, valves, pumps, conduits, cables, fire alarm and police call boxes, traffic signals, fire hydrants, post office boxes, streetlights, utility poles, telephone or television switching boxes, electrical transformer apparatus or similar equipment located either entirely underground, on poles not greater than 35 feet in height, or which are in the public right of way and are less than three feet above ground but not including essential public service structures or buildings. Telecommunication towers and antennas and similar wireless communications facilities operated or owned by private enterprise shall not be considered Essential Public Service Equipment.

Essential Public Service Structures And Buildings: Buildings or structures owned and operated by public utilities or municipal departments or otherwise regulated by the Michigan Public Service Commission and used for gas, electrical, steam, fuel, water supply, water or wastewater

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treatment or disposal, electrical substations, telephone communications and sewage lift stations all of which are above ground and outside the public right of way, and including similar structures or buildings necessary to furnish adequate service to the public within the Township, but not including essential public service equipment. Telecommunication towers and antennas and similar wireless communications facilities and wind energy systems operated or owned by private enterprise shall not be considered Essential Public Service Structures or Buildings.

2.06 DEFINITIONS “F”

Family

- a) An individual or group of persons related by blood, marriage, or adoption, together with foster children and legal wards of the principal occupants who are domiciled together as a single housekeeping unit in a dwelling unit.
- b) 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, half-way house, lodge, organization, group of students, or other individuals whose domestic relationship is of a transitory or seasonal nature, is for an anticipated limited duration of a school term or during a period of rehabilitation or treatment or is otherwise not intended to be of a permanent nature.

Family Child Care Home: A dwelling unit in which less than seven minor children are given care and supervision for periods less than 24 hours per day, operated by a person who permanently resides in the dwelling unit as a member of the household and who is registered with the State of Michigan to provide such care.

Farm: 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.

Farm, Affiliate: A farm under the same ownership or control as a farm market.

Farm Building: Any building other than a dwelling which is erected, moved upon or maintained on a farm which is essential and customarily exclusively used in a farm operation.

Farm Market: A place, area, or buildings from which farm products produced on and by an affiliate farm are sold. A farm market must also meet one of the following requirements: the square footage devoted to the sale of such farm products must constitute at least 50 percent of the total square footage used to display all of the products offered for retail sale or at least 50 percent of the gross dollars of products sold must be from farm products produced on and by the affiliated farm.

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, and includes, but is not limited to:

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

Farm Product: Those plants and animals useful to human beings produced by agriculture and includes, but is not limited to, forages and sod crops, grains and feed crops, field crops, dairy and dairy products, poultry and poultry products, Cervidae, livestock, including breeding and grazing, equine, fish, and other aqua cultural products, bees and bee products, berries, herbs, fruits, vegetables, flowers, seeds, grasses, nursery stock, trees and tree products, mushrooms, and other similar products, or any other product which incorporates the use of food, feed, fiber, or fur, as determined by the Michigan Commission of Agriculture.

Fence: A decorative or protective barrier intended to mark a boundary or prevent escape or intrusion, usually made from posts, wire, wood, shrubs, or similar material. In this ordinance a fence is not considered a structure.

Flea market: An open-air market for secondhand articles and antiques

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

Floor Area, Usable: That area to be used for the sale of merchandise or services, or for use to serve patrons, clients, or customers. Such floor area which is used or intended to be used principally for the storage or processing of merchandise, hallways, stairways, and elevator shafts, or restrooms, shall be excluded from this computation of usable floor area. Usable floor area

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shall be measured from the interior faces of the exterior walls, and total usable area for a building shall include the sum of the usable floor area for all floors.

Frontage: The length of the front lot line.

2.07 DEFINITIONS “G”

Garage, Private: A detached accessory building or a portion of the main building used for the parking of vehicles in conjunction with the permitted use of the main building.

Garage, Public or Commercial: A building or structure for the parking, storing, care of vehicles for payment or other compensation.

Garbage: All putrescible waste, including animal, fruit and vegetable wastes and discarded food of any type, or any filthy or offensive substances.

Gasoline Service Station: A building or structure and land area combined for servicing motor vehicles with the usual operating commodities such as gasoline, fuel oil, grease, water, batteries, tires and other similar minor accessories, or services such as washing, lubricating, minor repairs and adjustments. Major repairs, rebuilding or reconditioning of engines, collision service and body repair and similar activities are considered outside this definition of a gasoline service station.

Governmental building: A building or structure housing facilities used by local, county, state or federal governments to carry out governmental/public functions of any kind or character, except as may be limited or restricted under the provisions of this ordinance.

Grade: An average level of the finished surface of the ground adjacent to the exterior walls of the building or structure.

Green Belt: A strip or piece of land on which trees, shrubs, grass and other foliage is planted to screen from sight the principal use of the parcel or lot.

Group Child Care Home: A dwelling unit in which more than six but not more than 12 minor children are given care and supervision for periods of less than 24 hours per day, operated by a person who permanently resides in the dwelling unit as a member of the household, and who is registered with the State of Michigan to provide such care.

2.08 DEFINITIONS “H”

High risk erosion area: An area designated as a high-risk erosion area due to shoreland erosion by the Department of Natural Resources pursuant to part 323 of the Natural Resources and Environmental Protection Act (MCL 324.32301 et seq.).

Home-Based Business: An occupation or business that is conducted in or on property containing a dwelling unit in a manner that is clearly secondary and accessory to the principal residential use of the property as defined and regulated by Section 24.30 herein.

Home for the aged. A supervised personal care facility licensed under article 17 of the public health code, 1978 PA 368 as amended, MCL 333.20101 to 333.22260 at a single address, other than a hotel, adult foster care facility, hospital, nursing home, or county medical care facility that provides room, board, and supervised personal care to 21 or more unrelated, non-transient, individuals 55 years of age or older. Home for the aged includes a supervised personal care

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facility for 20 or fewer individuals 55 years of age or older if the facility is operated in conjunction with and as a distinct part of a licensed nursing home. Home for the aged does not include an area excluded from this definition by section 17(3) of the continuing care community disclosure act, 2014 PA 448, MCL 554.917.

Home occupation: A gainful occupation carried on in the home, clearly incidental and secondary to the use of the home as a dwelling place.

Hotel, Motel: A building or structure, or group of buildings or structures, consisting of more than four sleeping units, for rent on a temporary basis as lodging, with or without food service.

House pets: Domesticated animals traditionally and historically kept for pleasure rather than utility, and not including animals typically referred to as "wild" or animals of a potentially dangerous nature.

Household: A family living together in a single dwelling unit with common access to and common use of all living and eating areas and all areas and facilities for the preparation and serving of food within the dwelling unit.

House Keeping Unit: A Dwelling Unit organized as a single entity in which the members of the household share common housekeeping facilities

House Keeping Facilities: Complete, independent living facilities, including areas for living, sleeping, eating, cooking, and sanitation, and the following permanent fixtures and appliances: stove, refrigerator, kitchen sink, tub or shower, lavatory and water closet.

Hospital: A facility which provides community services for medical care, normally inpatient care, of the sick or injured (including obstetrical care; and which is a privately-owned facility or a facility of a private or public nonprofit corporation or association, licensed and/or regulated by the state.

2.09 DEFINITIONS “I”

Indoor storage: Storage building used in connection with existing commercial use to store inventory.

Inoperable Motor Vehicle: Any motor vehicle (automobile, truck or similar vehicle) which is unlicensed, inoperable, dis-mantled, wrecked or which cannot be operated under its own power.

Institutional or public uses: Churches, schools, hospitals, convalescent and nursing homes, parks, civic centers, libraries, governmental structures, and other nonprofit establishments for public use.

2.10 DEFINITIONS “J”

Junk: Any worn out, waste, used or discarded materials including, but not limited to, scrap metal, scrap lumber, paper, rags, tires, glass, building materials, inoperable motor vehicles and parts, and other similar materials.

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Junk Yard/Salvage Yard: Any open area where junk, waste materials, second hand materials including motor vehicle parts, are bought, sold, exchanged, stored, baled, packed, disassembled or handled.

2.11 DEFINITIONS “K”

Kennel, Commercial: Any lot or premises on which four or more dogs or cats six months of age or older, are kept either permanently or temporarily for the purpose of boarding or breeding for compensation, but not including a veterinary hospital if animals are boarded only during periods necessary for treatment or recuperation.

Kennel, Private: Any lot or premises on which no more than three dogs or three cats or any combination thereof totaling three are owned and kept by the occupant of the dwelling unit in any residential district.

2.12 DEFINITIONS “L”

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

Lot/Parcel/Tract: Contiguous land described in a recorded plot, or by metes and bounds, which is not divided by a street or alley, including any part thereof subject to any easement for any purpose including a street or alley.

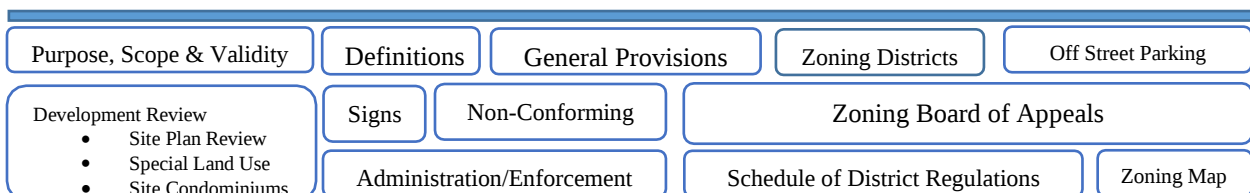
Lot, Corner: A lot or parcel having frontage on two or more streets or roads where the corner interior angle formed by the intersection of the streets is 135 degrees or less; or a lot abutting upon a curved street if tangent to the curve form an interior angle of 135 degrees or less. ***See Figure 2-4.***

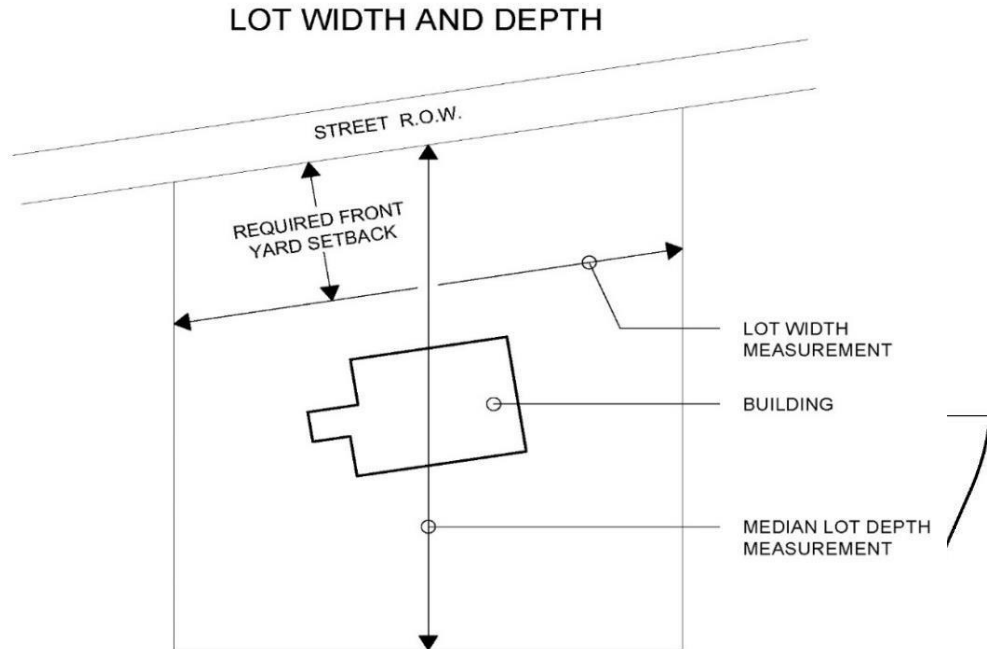
Lot Coverage: That part or percent of the lot occupied by buildings, including accessory buildings.

Lot, Interior: A lot other than a corner lot. ***See Figure 2-4.***

Lot, Through: An interior lot having frontage on more than one street or road. ***See Figure 2-4.***

Figure 2-4





Lot Line, Front: The

lot line or lines separating the lot from a public or private street right-of-way.

Lot Line, Rear: The lot line which is opposite to, and most distant from, the front lot line. In the case of an irregular, triangle or gore lot, the rear lot line shall be a line 10 feet in length, entirely within the lot, parallel to, and at the maximum distance from, the front lot line.

Lot Line, Side: Any lot line not a front lot line or a rear lot line.

Lot Width: The horizontal distance between the side lot lines, measured parallel to the front lot line at the minimum required setback line. For purposes of this Ordinance the setback line is also the building line. **See Figure 2-5.**

Lot Depth: The distance between the front lot line and the rear lot line measured along the median between the side lot lines. **See Figure 2-5.**

Lot of Record: A lot or parcel of land which is a part of a sub-division, or which is described by metes and bounds, which sub-division or description has been recorded in the Office of the Mason County Register of Deeds by deed or land contract. In order for a lot or parcel to be a legal non-conforming lot of record it must have been so recorded prior to the date of this Ordinance.

Figure 2-5

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2.13 DEFINITIONS “M”

Manufactured Home: A building or structure, designed and intended as a dwelling, manufactured, constructed or assembled at a location other than its final use location.

Marijuana, also known as Marihuana, also known as Cannabis: That term shall have the meaning given to it in Section 7106 of the Michigan Public Health Code, 1978 PA 368, as amended, MCL 333.7106 *et seq.*, as is referred to in Section 3(d) of the Michigan Medical Marijuana Act, PA 2008, Initiated Law 1, MCL 333.26423(d). Any other term pertaining to marijuana used in this ordinance and not otherwise defined shall have the meaning given to it in the Michigan Medical Marijuana Act and/or in the General Rules of the Michigan Department of Community Health issued in connection with that Act.

Master deed: The documentation prepared for recording with respect to a condominium development under the Condominium Act (MCL 559.101 *et seq.*) to which are attached as exhibits the bylaws for the condominium development and the condominium subdivision plans.

Medical (use of) Marijuana: The acquisition, possession, cultivation, manufacture, use, internal possession, delivery, transfer or transportation of marijuana or paraphernalia relating to the administration of marijuana to treat or alleviate a registered qualifying patient’s debilitating medical condition or symptoms associated with the debilitating medical condition, as defined under the Michigan Medical Marijuana Act, PA 2008, Initiated Law 1, MCL 333.26421 *et seq.*

Medical Marihuana Dispensary: Any business, facility, association, compassion club,

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cooperative, location, or operation, which is operated for profit or non-profit, whether fixed or mobile, where medical marijuana is made available to be sold, used, grown, processed, delivered, or distributed by or to one or more of the following:

- (1) A primary caregiver as defined by Michigan Initiated Law 1 of 2008 as amended.
- (2) A qualifying patient as defined by Initiated Law 1 of 2008 as amended.
- (3) Members of the public.

A medical marijuana dispensary shall also include any place, location, facility, cooperative, compassion club, or operation, which is operated for profit or non-profit, whether fixed or mobile, where medical marijuana is smoked or consumed where either three or more persons are present and smoking or consuming medical marijuana or such medical marijuana smoking or consumption is occurring on the property of a business, association, cooperative or commercial operation or facility.

A medical marijuana dispensary shall not include the dispensation of medical marijuana by a registered primary caregiver personally dispensing to not more than five qualified patients in strict accordance with the Michigan Initiated Law 1 of 2008, as amended, so long as the lawful amount of medical marijuana is delivered to the qualifying patient where the qualifying patient resides and it is done in full compliance with this Ordinance as well as all other applicable Township Ordinances and applicable Michigan and Federal laws, rules and regulations.

A medical marijuana dispensary shall also not include the following uses: a State-licensed health care facility; a State-licensed residential care facility for the elderly or infirmed; or a residential hospice care facility, as long as any such use complies strictly with applicable laws and rules of the township and applicable Michigan and Federal laws, rules, and regulations.

Mobile Home: A structure that is transportable in one or more sections, built on a chassis, and designed to be used as a dwelling, with or without a permanent foundation, when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems contained in the structure. (PA 96 of 1987)

Mobile Home Park: A parcel or tract of land under the control of a person upon which three or more mobile homes are located on a continual, non-recreational basis and which is offered to the public for that purpose regardless of whether a charge is made therefor, together with any building, structure, enclosure, street, equipment, or facility used or intended for use incident to the occupancy of a mobile home. (PA 96 of 1987)

Modular / Manufactured Housing: A dwelling unit which consists of prefabricated units wholly or substantially constructed at an off-site location and transported to a lot or parcel on a removable undercarriage or flat-bed and assembled for permanent location on a lot or parcel.

Motel: See Hotel

Moveable structure: A structure which the Charter Township of Pere Marquette Building Inspector has determined to be moveable. Such a determination shall be based on a review of the design and size of the structure, a review of the capability of the proposed structure to withstand normal moving stresses and a site review to determine whether the structure will be accessible to moving equipment.

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2.14 DEFINITIONS “N”

New Construction: Structures for which the start of construction commenced on or after the effective date of this Ordinance or for which a zoning permit was issued.

Non-Conforming Building or Structure: Any building or structure which does not comply with the applicable regulations required by this Ordinance for the district in which it is located, either on the effective date of this Ordinance or as the result of a subsequent amendment thereof.

Non-Conforming Lot of Record: A lot or parcel of land which does not comply with the requirements of the Ordinance as to area, lot dimensions, and other required criterion, for the district in which it is located either on the effective date of this Ordinance or as the result of a subsequent amendment thereto.

Non-Conforming Use: Any use of land, buildings or structures which does not conform to the applicable use regulations for the district in which it is located, either on the effective date of this Ordinance or as the subsequent amendment thereto.

Non-putrescible: Solid waste that does not contain organic matter capable of being decomposed by microorganisms under standard conditions, does not emit offensive odors and does not attract vermin, flies, birds, or rodents.

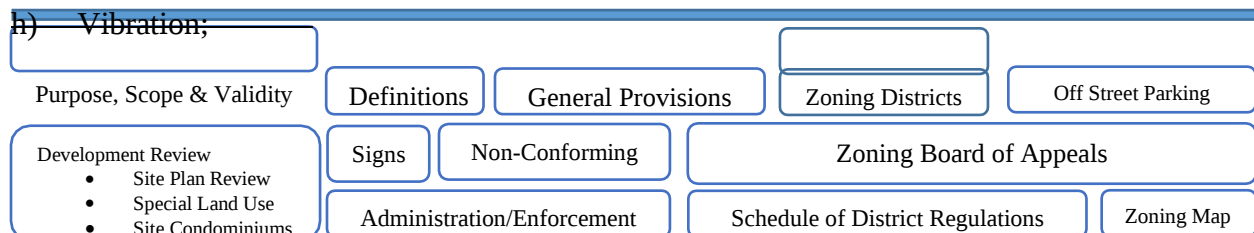
Normal High-Water Mark: The normal high-water mark of the lake as determined by the Department of Natural Resources, or if the Department has not made such a finding, the normal high-water mark location shall be determined by the Township Zoning Administrator. Moreover, the measurement shall be made only along a natural shoreline, and shall not include any manmade channel, lagoon, canal or the like.

Noxious weeds: Canada thistle, dodders, mustards, milkweed, wild carrot, bindweed, perennial sow thistle, hoary alyssum, ragweed, poison ivy, poison sumac, bellis perennis and goldenrod and all other noxious weeds as designated by state statute.

Nuisance: An offensive, annoying, unpleasant or obnoxious thing or practice. A cause or source of annoyance, especially a continuing or repeating invasion or any physical characteristics of activity or use across a property line which can be perceived by or affects a human being. The generation of an excessive or concentrated movement of people or things, such as, but not limited to:

- a) Noise;
- b) Sand or dust;
- c) Smoke;
- d) Odor;
- e) Glare;
- f) Fumes;
- g) Flashes;

h) ~~Vibration;~~



- i) Shock waves;
- j) Heat;
- k) Electronic or atomic radiation;
- l) Objectionable effluent;
- m) Noise of congregation or people, particularly at night;
- n) Passenger traffic;
- o) Invasion of nonabutting street frontage by traffic.

Nursing home: A nursing care facility, including a county medical care facility, licensed under article 17 of the public health code, 1978 PA 368 as amended, MCL 333.20101 to 333.22260 that provides organized nursing care and medical treatment to 7 or more unrelated individuals suffering or recovering from illness, injury, or infirmity. As used in this definition, "medical treatment" includes treatment by an employee or independent contractor of the nursing home who is an individual licensed or otherwise authorized to engage in a health profession under Part 170 or 175 of the public health code, 1978 PA 368 as amended. Nursing home does not include any of the following:

- a) A unit in a state correctional facility.
- b) A hospital.
- c) A veteran's facility created under 1885 PA 152, MCL 36.1 to 36.12.
- d) A hospice residence that is licensed under this article.
- e) A hospice that is certified under 42 CFR 418.100.
- f) A home for the aged licensed under article 17 of the public health code, 1978 PA 368, MCL 333.20101to 333.22260

2.15 DEFINITIONS "O"

Off-Street Parking Lot or Parking Lot: A facility providing parking spaces, along with adequate drives, maneuvering areas, and aisles for the parking of more than three vehicles.

Open Air Business: A retail sales establishments operated substantially in the open air, including, but not necessarily limited to:

- a) Bicycle, utility truck or trailer, motor vehicle, boats, or home equipment sales, repair, storage, or rental services.
- b) Outdoor display area, storage, or sale of garages, motor homes, recreation vehicles, manufactured homes, snowmobiles, swimming pools and similar activities, but not including farm implements or commercial construction equipment.
- c) Retail sales of trees, fruits, vegetables, shrubbery, plants, seeds, topsoil, humus, fertilizer, trellises, lawn furniture, playground equipment and other home garden supplies and equipment, but not including lumberyards.

Purpose, Scope & Validity	Definitions	General Provisions	Zoning Districts	Off Street Parking
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Ordinary high-water mark: The line between upland and bottomland which persists through successive changes in water levels, below which the presence and action of the water is so common or recurrent that the character of the land is marked distinctly from the upland and is apparent in the soil itself, the configuration of the surface of the soil and the vegetation. On an inland lake which has a level established by law, it means the high established level. Where water returns to its natural level as the result of the permanent removal or abandonment of an ordinary high-water mark.

2.16 DEFINITIONS “P”

Park, public: Lands which have been devoted to the recreation and enjoyment of the public; an open or enclosed tract of land for the comfort and enjoyment of the public; an open space intended for the recreation and enjoyment of the public; any land set apart for ornament, or to afford the benefit of air, recreation, exercise or amusement for the public.

Parking Space: An area of definite length and width, said area shall be exclusive of lawn areas, or drives, aisles or entrances giving access thereto, and shall be fully accessible for the parking of permitted vehicles.

Patient, Qualifying (Qualified Patient): A person to whom a Registry Identification Card has been issued by the Michigan State Department of Community Health which identifies that person as a registered qualifying patient as defined by the Michigan Medical Marihuana Act, PA 2008, Initiated Law 1.

Patio, Enclosed: A structure which has a roof and walls whose surface area is at least 50 percent glass or screen and which is attached to or part of a building.

Patio, Unenclosed: An area at grade level composed of concrete, asphalt, stone, brick or similar material typically adjoining or attached to a house or other principle building and which may have a roof but no walls.

Personal Service Establishment: A commercial business conducting services that are performed primarily on the premises.

Planned Unit Development (PUD): A land development project, approved by the Township Board, following public hearing, which may permit flexibility in building sites, mixtures of housing types, land uses, usable open spaces, setbacks, lot sizes and the preservation of natural features

Pond: An outdoor body of standing water accumulated in a natural or artificially constructed basin or depression in the earth, either above or below or partly above or partly below grade, capable of holding water to a depth of greater than two feet when filled to capacity.

Pool, private swimming: A structure either above or below or partly above and partly below grade, located either in part or wholly outside of a permanently enclosed and roofed building, designed to hold water to a depth of greater than two feet when filled, and intended to be used for swimming purposes.

Porch, Enclosed: A roofed structure with walls whose surface area is at least 50 percent glass or screen attached to or part of a building and which provides direct access to and from the building.

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Porch, Unenclosed: A roofed structure without walls attached to or part of a building and which provides direct access to and from the building

Principal Use or Main Use: The primary or predominant use of land, building or structure.

Private Street: Any street which is privately owned and maintained and which provides or is intended to provide the primary means of vehicular ingress and egress to three or more lots, principal buildings, or dwelling units or combination thereof and which is located within a private street easement as defined herein.

Private Street Easement: An easement which is granted exclusively for private access to three or more parcels of land and which contains a private street.

Professional service facilities: Offices of an architect, engineer, physician, attorney, accountant, barber, beautician. The establishments offering professional services for a fee such as financial institutions, services performed shall be of a personal nature and are not intended for service on personal goods and items, such as, clothes cleaning, shoe repair and other similar services.

Putrescible: A solid waste that contains organic matter capable of being decomposed by microorganisms and of such a character and proportion as to cause obnoxious odors and to be capable of attracting or providing food for vermin, flies, birds or rodents

2.17 DEFINITIONS “Q”

Qualifying patient: A person as defined in section 3(h) of the Michigan Medical Marihuana Act (MCL 333.26423(h)), and who has been issued and possesses a valid registry identification card.

2.18 DEFINITIONS “R”

Recreation activity, indoor: A public or private recreational activities normally and customarily conducted within an enclosed building such as theaters; exercise facilities; court games such as tennis, paddleball, handball, basketball, and volleyball; bowling alleys; archery; roller skating rinks; ice arenas; pool and billiards; swimming pools; and including concession areas and restaurants when designed as an integral part of the facility and incidental to one or more of the other permitted uses.

Recreation activity, outdoor: A public or private recreational activities normally and customarily conducted in the outdoors such as golf courses, practice areas including golf driving ranges, archery ranges, baseball batting facilities, playing fields for baseball, football, soccer, swimming pools, swimming beaches and water rides, court games such as tennis, volleyball, and basketball, ice rinks, cross-country and downhill ski areas, marinas, miniature golf, target shooting, campgrounds, and including concession stands and restaurants when designed as an integral part of the site and incidental to one or more of the other permitted uses.

Recreational Vehicle or Equipment: Vehicles or equipment used primarily for recreational purposes. For the purpose of this chapter, recreational vehicle means:

- a) A vehicle primarily designed and used as temporary living quarters for recreational, camping, or travel purposes, including a vehicle having its own motor power or a vehicle mounted on or drawn by another vehicle such as a motor home or camper;

Purpose, Scope & Validity	Definitions	General Provisions	Zoning Districts	Off Street Parking
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- b) Boats and trailers designed to transport boats;
- c) Snowmobiles, jet skis, and trailers designed to transport them;
- d) Off-road vehicles and trailers designed to transport off-road vehicles;
- e) Pop-up tent and camper trailers;
- f) Other similar vehicles deemed by the Zoning Administrator to be recreational vehicles except that this term shall not include motorcycles or motorbikes or other similar means of transportation intended primarily for daily on-street use.

Recycling facility: A facility involved in the transformation, adaptation, extraction or sorting of useful post-consumer, non-putrescible materials that may require outdoor storage and/or processing, or where the potential for the use may have a negative impact on surrounding properties due to related noise, vibration, dust, emissions or processing techniques.

Recycling facility (enclosed): A facility involved in the transformation, adaptation, extraction or sorting of useful post-consumer, non-putrescible materials (such as paper, glass, tin, aluminum, or plastic) where all processes are done within a completely enclosed structure.

Refuse: Garbage, rubbish or any waste product including both combustible and non-combustible, such as paper, cardboard, metal containers, yard clippings, ashes, wood, glass, bedding, crockery and building materials. The term refuse shall also include tires, rags, discarded clothing and containers, sweepings, nails, tin, wire, light bulbs, signs, advertising matter, petroleum products, cleaning agents, paint, pesticides, and such other materials as may be discarded on a day to day basis, and as such, would normally be put in acceptable containers for proper disposal.

Residential District: The R-1, R-2, and MHP districts.

Restaurant: A building or structure for the sale or preparation of food for consumption on the premises. Also, a building or structure for the sale of pre-prepared foods for consumption off the premises via drive-in or walk-up facilities.

Right-of-Way: A street, alley or other thoroughfare or easement established for the passage of vehicles or persons.

Rooming House: A dwelling having one or more kitchens and used to provide meals and/or lodging, where occupants are non-transient in nature, for payment or other compensation and which has four or less sleeping rooms in addition to those used by the immediate family occupying the dwelling.

2.19 DEFINITIONS “S”

Salvage/junk yard: An open area where waste or scrap materials are bought, sold, exchanged, stored, baled, packed, disassembled or handled, including but not limited to scrap iron and other metals, paper, rags, rubber tires and bottles and also including an auto wrecking yard but not including uses established entirely within enclosed structures.

Sanitary landfill: A method of disposing of refuse on land in accordance with Part 115 of the Natural Resources and Environmental Protection Act (MCL 324.11401 et seq.).

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Satellite dish antenna: A parabolic or spherical reflective type of antenna used for communications with a satellite-based system located in planetary orbit.

Self-service storage facility: A building or group of buildings, or areas of paved land (or a combination of these) in which various sizes of storage spaces/areas are offered to the general public for rent or lease for the purposes of storing personal property indoors or outdoors; also referred to as "mini-storage".

Setback: The minimum horizontal distance set forth in the Township Zoning Ordinance for each district as measured from the front, rear and side lot lines which establishes the area within which buildings and structures must be erected or placed. Setback, Setback Line and Building Line are the same as Required Yard as defined herein. **See Figure 2-6.**

Sidewalk: A concrete facility for pedestrians that is physically separated by an open space buffer or physical barrier from the portion of a street or private road traveled by motor vehicles.

Short Term Rental: The rental of any single-family dwelling or any dwelling unit of a two-family dwelling for a period of less than one month. Short-term rental also includes the rental of a single-family dwelling or a dwelling unit of a two-family dwelling to individuals or families who then rent or otherwise allow others to occupy the dwelling for less than one month. The following are not included in short-term rental:

- a) A dwelling unit owned by a business entity and made available on a temporary basis to employees of the business entity while performing work in the township or adjacent areas.
- b) State-licensed residential facilities, such as adult foster care homes, otherwise permitted under this zoning ordinance, the Zoning Act (MCL 125.3101 et seq.), or other state law.
- c) Dwelling units provided for agricultural workers

Site Condominium Unit: A condominium unit established in compliance with the Condominium Act which is a volume of air space defined by an area of land and a specified distance above and below the land surface designed and intended for separate ownership and use as described in the site condominium master deed, and within which a building or other improvement may be constructed by the condominium unit owner. A site condominium unit shall be considered a lot for purposes of this Ordinance.

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

Site development plan: A reproducible scale drawing which shows the location and dimensions of all intended and existing buildings, structures, parking, loading facilities, streets, driveways, buildings, planting, landscaping, yard spaces, sidewalks, signs, drainage facilities, water supply, sewage systems and any other items that may be required by this ordinance.

Site plan review: The submission of plans for review, as part of the process of securing zoning approval.

Stable, public: A building used for housing horses or other domestic animals for commercial enterprise.

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Storage, outside: The outdoor standing or placement of usable and/or potentially usable goods or equipment other than for display and not including waste or scrap materials, other than in salvage/junk yards, unless specifically provided for within this ordinance.

Story: That part of a building included between the surface of any floor above the average grade or ground at the foundation and the surface of the next floor, or if there is no floor above, then the ceiling next above. See Definition of Basement for Illustration.

Story, Half: An uppermost story lying under a sloping roof having a usable floor area of at least 200 square feet with a clear height of seven feet six inches. For the purpose of this chapter, the usable floor area is only that area having at least five feet clear height between floor and ceiling.

Stream Bank: The portion of the stream channel cross section that restricts the lateral movement of water at normal bank-full levels often exhibiting a distinct break in slope from the stream bottom.

Street or Road: A public or private thoroughfare which affords the principal means of access to abutting properties including roads and highways but not including an alley.

Structure: Anything constructed or erected in or upon the ground and having a permanent location in or upon the ground including, though not limited to buildings, accessory buildings, sheds, patios, gazebos, tennis courts, swimming pools, radio and television towers, decks and platforms; provided, however, that patios shall not be deemed structures if no parts thereof are above the ground and if they are located outside the minimum front, side, and rear yard setback lines. Lawful fences or walls, utility poles, basketball goals, mailboxes, sidewalks, driveways, streets, parking areas, or retaining walls shall not be considered to be structures for the purposes of this ordinance.

Substandard lot: A lot of record or a lot described in a land contract or deed executed and delivered prior to the effective date of this ordinance which does not meet the minimum requirements of the district or zone in which it is located. In a high-risk erosion area, a substandard lot means those lots which were legally created with sufficient depth to meet the setback requirement for principal structures in the zone, but which subsequently become substandard due to natural erosion processes.

2.20 DEFINITIONS “T”

Tavern: A commercial facility that serves alcoholic beverages with limited food items.

Theater: Any building or place used for presentation of dramatic spectacles, shows, movies, or other entertainment, open to the public with or without charge.

Townhouse: That portion of a multiple dwelling which has a common sidewall with some other dwelling unit in the building but which extends throughout the vertical height of the structure and provides separate or individual front and rear yard areas and which has self-contained facilities for living, sleeping, and cooking and which is designed for occupancy by one family.

Trailer: Any boat trailer, utility trailer, horse or animal trailer, truck trailer, travel trailer or any type of trailer, or device used for hauling or moving things, which lacks all of the necessary component parts to make it then operative, serviceable and/or licensed as a trailer to be pulled as such on the highway.

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2.21 DEFINITIONS “U”

Unwholesome substance: Any substance, refuse, trash, automobile body, trailer body, unregistered and inoperable watercraft, stone, concrete or asphalt rubble, junk, offal, debris, filth, noxious weeds, or any other material or structure which constitutes a threat or menace to the health, safety, or general welfare of the public.

Use: The purpose or activity for which the land or building thereon is arranged, occupied, or maintained.

2.22 DEFINITIONS “V”

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

Variance: The relief granted, or the remedy authorized, by the Board of Appeals, as the result of an appeal.

2.23 DEFINITIONS “W”

Warehousing: A building used for storage of industrial manufactured goods or raw materials.

Wetland: Land characterized by the presence of water at a frequency and duration sufficient to support, and that under normal circumstances does support, wetland vegetation or aquatic life, and is commonly referred to as a bog, swamp, or marsh and which is contiguous to an inland lake, a river or stream.

2.24 DEFINITIONS “X”

2.25 DEFINITIONS “Y”

Yard: The open space on a lot between the lot line and the foundation or wall of the principal building, whichever is closer. ***See Figure 2-6.***

Yard, Front: The space extending across the full width of the lot between the front lot line and the wall or foundation of the principal building whichever is closer. A corner lot has two front yards. ***See Figure 2-6.***

Yard, Rear: The space extending across the full width of the lot between the rear lot line and the wall or foundation of the principal building, whichever is closer. ***See Figure 2-6.***

Yard, Required: The space between a lot line and the setback line. The required yards establish the area within which buildings and structures must be erected or placed. A Required Yard is the same as Setback and Building Line as defined herein. ***See Figure 2-6***

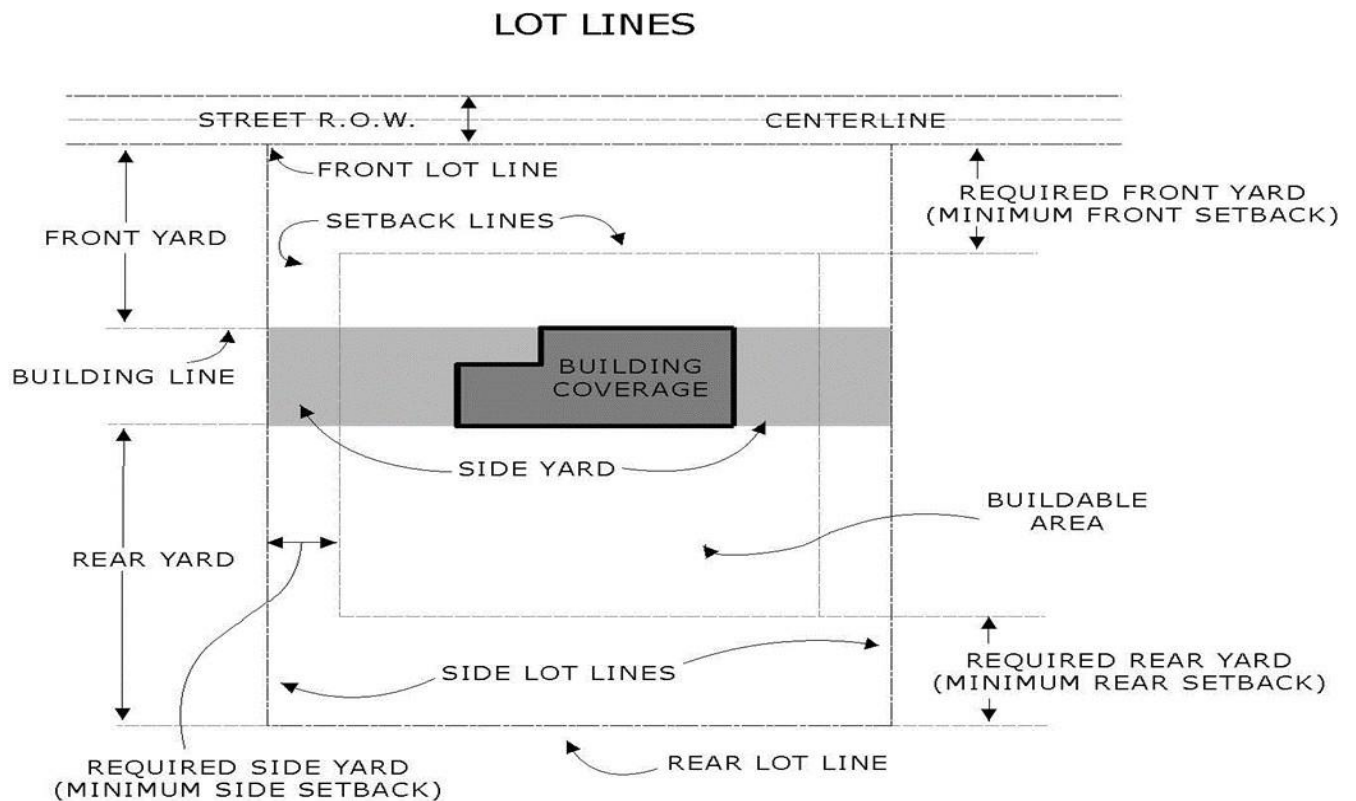
Yard, Side: The space between the side lot line and the wall or foundation of the principal building, whichever is closer, extending from the front yard to the rear yard. ***See Figure 2-6.***

2.26 DEFINITIONS “Z”

Zoning Administrator: That person designated by the Township Board to administer this Ordinance. This term also includes any person designated by the Zoning Administrator to carry out any authorized duties of the Zoning Administrator.

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Figure 2-6



Purpose, Scope & Validity	Definitions	General Provisions	Zoning Districts	Off Street Parking
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ARTICLE 3

GENERAL PROVISIONS

3.01 THE EFFECT OF ZONING.

For the purposes of this chapter, except as hereinafter specifically provided otherwise, no lot or land or premises shall hereafter be used, maintained or occupied, and no building or structure or part thereof shall be constructed, erected, moved, placed, maintained, reconstructed, used, extended, enlarged or altered, except in conformity with the regulations herein specified for the zoning district in which it is located; these limitations being construed as the minimum legislation necessary to promote and protect the general safety and welfare of the community.

3.02 REQUIRED AREA AND SPACE.

- a) No lot or lots, yard, court, parking area or other space existing as of the effective date of this Zoning Ordinance shall be divided, altered, or reduced in dimension or area below the minimum requirements of this Zoning Ordinance. If already less than the minimum required under this Ordinance the area or dimension shall not be further divided or reduced.
- b) A lot which is platted, or otherwise lawfully of record as of the effective date of this Zoning Ordinance may be used as specified in the district in which it is located. The main building on such lot shall be located so that it meets at least 80 percent of the side yard requirements of this chapter. In all cases, the minimum front and rear yard requirements of this Ordinance shall be met.
- c) If two or more abutting lots of record or combination of lots and portions of lots of record in existence on the effective date of this Zoning Ordinance, or the effective date of an amendment to this Ordinance are in common ownership and individually do not meet the lot width or lot area requirements of this chapter then the lots involved shall be considered to be an undivided parcel for the purposes of this Ordinance.

Such lots may be used as specified in the district in which it is located but a building permit shall not be issued until such lots are legally combined into one lot and recorded with the Mason County Register of Deeds. No portion of such parcel shall be used or divided in a manner which diminishes compliance with lot width and area requirements of this chapter

3.03 PROHIBITED USES

Where a use is defined or listed as a permitted use or a conditional land use in a given zoning district, such use shall not be permitted in any other zoning district where it is not listed even if such use is similar to a listed permitted or conditional use in that other district.

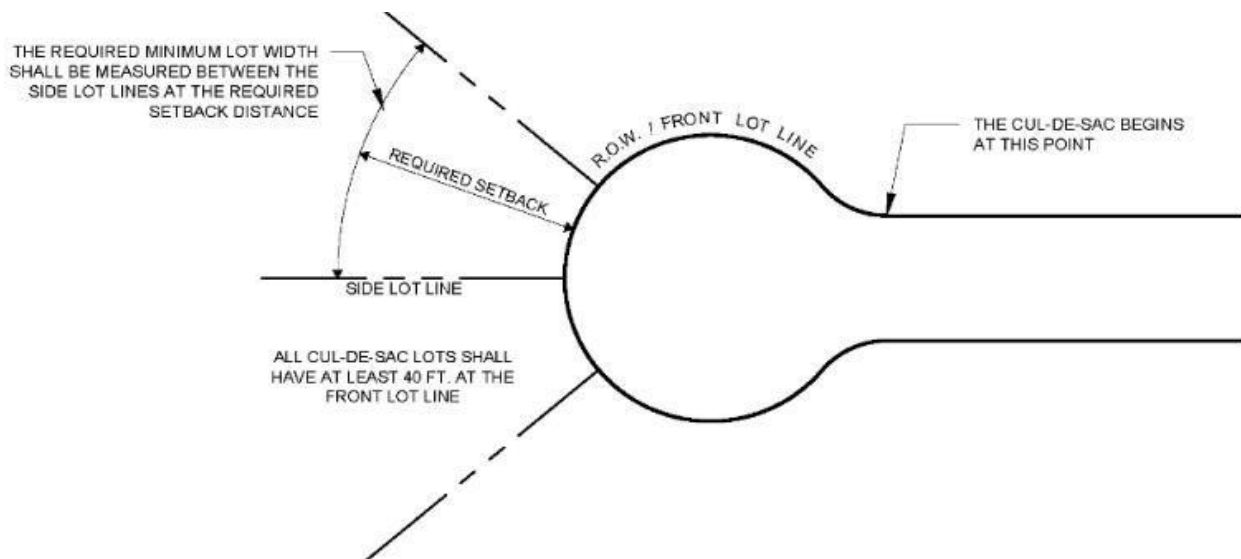
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3.04 LOT FRONTAGE REQUIREMENTS

All lots created after the effective date of this Zoning Ordinance shall have frontage on a public or private street as defined herein in accordance with the minimum lot width requirements for the zoning district in which the lot is located and in accordance with the frontage and width requirements for corner lots and lots on a cul-de-sac as required herein.

3.05 CUL-DE-SAC LOTS

- a) The cul-de-sac shall be determined to commence at the intersection of the radius of the cul-de-sac with the street right-of-way line.
- b) All cul-de-sac lots shall have a minimum frontage of 40 feet measured along the front lot line between side lot lines.
- c) The minimum lot width shall be measured between the side lot lines at the required setback distance.



3.06 CORNER LOTS

- a) On a corner lot, each lot line which abuts a street shall be deemed to be a front lot line and the required yard along both street frontages shall be a required front yard.
- b) For a corner lot with two front lot lines, the property owner shall elect, and so designate in their application for a permit, which of the remaining two required yards shall be the required side yard and which the required rear yard.
- c) For a corner lot with three front lot lines, the remaining lot line shall be a rear lot line.
- d) For a corner lot, the minimum lot width shall be met along each front lot line.

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3.07 DOUBLE FRONTAGE / THROUGH LOTS.

On double frontage lots, which are also considered through lots, the required front yard as prescribed for the district as herein established shall be provided on both streets.

3.08 HEIGHT EXCEPTIONS

The height limitations as specified for buildings in each zoning district do not apply to parapet walls, grain elevators, monuments, towers, spires, belfries, cupolas, antennas, water tanks, ventilators, chimneys, or other appurtenances, usually required to be placed above the roof level and not intended for human occupancy.

3.09 MAIN BUILDING OR PRINCIPAL USE

Each parcel shall contain only one main building or principal use, except for groups of related commercial, industrial, and office buildings, and multiple-family dwellings contained within a single, integrated complex, sharing parking, signs, access, and other similar features, which together form a unified function and appearance. A parcel may contain more than one Conditional Land Use if approved by the Planning Commission in accordance with these criteria.

3.10 CORNER LOT CLEAR VISION AREA

On any corner lot nothing shall be erected, placed, planted, or allowed to grow in such a manner as materially to impede vision between a height of 2½ feet and eight feet above the established connecting them at points 25 feet from the intersection of the right-of-way line.

3.11 PROJECTIONS INTO REQUIRED YARDS

- a) Certain architectural features, such as cornices, bay windows, fire escape windows, or windows without foundations, gutters, eaves, chimneys, pilasters, and similar features may project no further than four feet into a required front, rear, or side yard.
- b) An open, unenclosed, and uncovered porch, paved terrace, deck, balcony or window awning may project no further than five feet into a required front yard and no more than 15 feet into a required rear yard but shall not project into a required side yard.

3.12 ACCESSORY BUILDINGS, USES AND STRUCTURES

a) Regulations for Accessory Buildings in All Zoning Districts.

The following regulations shall apply to accessory buildings in all zoning districts unless Otherwise provided:

- 1) A zoning compliance permit shall first be obtained from the Zoning Administrator prior to placement and/or construction of an accessory building which contains less than 200 sq. ft. of floor area including farm buildings as defined herein.
- 2) A building permit is required for any accessory building which contains 200 sq. ft. or more of floor area except for farm buildings.

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**Article 3– General Provisions
Pere Marquette Charter Township**

- 3) In any zoning district, an accessory building may be erected detached from the permitted principal building or as an integral part of the permitted principal building. When erected as an integral part of the permitted principal building, it shall comply in all respects with the requirements of this Ordinance applicable to the permitted principal building.
 - 4) Accessory buildings or garages shall be considered as attached to the principal building when the distance between structures is solidly covered by a breezeway, portico, covered colonnade, or similar architectural device or the principal building and accessory building share a common wall for at least one-half the length of the wall of either building.
 - 5) An accessory building or accessory structure shall not be established on a lot before the principal building or use is constructed or established except that this requirement shall not apply to farm buildings.
 - 6) Accessory buildings in any zoning district shall not be erected in any required front or side yards except as may be permitted herein.
 - 7) A detached accessory building may be located between the minimum required front yard setback and the principal building provided the accessory building is set back from the side lot line the same distance as required for the principal building.
 - 8) A detached accessory building shall not be located closer than 10 feet to any principal building.
 - 9) An accessory use or building located on a corner lot shall comply with the front yard setback requirements for each street.
 - 10) Accessory uses are permitted only in connection with, incidental to, and on the same lot with a principal use, which is permitted in the particular zoning district.
 - 11) An accessory use must be in the same zoning district as the principal use on a lot.
 - 12) Storage. Truck bodies, school bus bodies, mobile and manufactured dwellings, travel trailers, or other similar items built and intended for uses other than storage shall not be used for storage purposes. However, semi-trailers and shipping containers may be utilized for storage in the AG-1, A/R, C-1, C-2 and Industrial Zoning Districts provided the storage is for less than one year and approval is obtained from the Zoning Administrator.
 - 13) A detached and attached accessory building or structure including boat houses shall not be used for living purposes or used as a dwelling unit.
- b) Regulations for Accessory Buildings in the A-1 and A/R Zoning Districts.
- 1) A farm building as defined herein may be constructed or established on a lot before a principal building or use is established.
 - 2) Farm buildings and non-farm accessory buildings shall comply with the setback requirements of the zoning district in which it is to be located.

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**Article 3– General Provisions
Pere Marquette Charter Township**

3) A zoning permit is required to be obtained from the Zoning Administrator before constructing a farm building but a building permit is not required to construct a farm building.

c) Regulations for Accessory Buildings in the R-1 and R-2 Zoning Districts.

1) *Size and Height.*

- i. The total square footage of all detached accessory buildings on a parcel shall not exceed the square footage of the first floor of the principal building on the same parcel. For a bi-level structure, the total square footage of all detached accessory buildings on a parcel shall not exceed the square footage of that portion of the structure above the grade at the front of the structure.
- ii. A detached accessory building shall not exceed the height of the principal building on the same lot.
- iii. The Planning Commission may, however, permit detached accessory buildings to exceed the limitations of Sections 3.12 (c) (1) i. and ii. as a Conditional Land Use in accordance with the procedures and standards of Chapter 23 herein. In its review of such a request, the Commission shall take into consideration the size of the property proposed for the accessory building or buildings, the proximity of existing dwelling units, the visibility of the proposed accessory building or buildings as seen from off site and if the size and type of building materials of the proposed accessory building or buildings are compatible with the character of the surrounding neighborhood.

2) Accessory buildings which contain less than 200 sq. ft. of floor area shall be set back a minimum of five feet from the side and rear lot lines.

3) Accessory buildings which contain 200 sq. ft. or more of floor area shall comply with the minimum setback requirements for the principal building.

4) A lot shall contain no more than three detached accessory buildings.

d) Regulations for Accessory Buildings in All Other Zoning Districts

Accessory buildings are permitted the PS, C-1, C-2, Industrial, Harbor, Airport, and Pumped Storage Zoning Districts provided the following restrictions are met:

- 1) Detached accessory buildings shall meet all setback requirements for the zone district in which it is located except as may be permitted herein;
- 2) A detached accessory building shall not exceed the permitted height for principal buildings in the district in which it is located.

e) Regulations for Accessory Buildings on Water Front Lots.

- 1) The front yard for a waterfront lot shall be as determined by Section 3.14 herein.
- 2) An accessory building or structure shall not be located in the required front yards.

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3) One accessory building may be located within the waterside front yard but shall not exceed 100 sq. ft. in area and eight feet in height. Such building shall be set back a minimum of five feet from the side lot line.

4) Additional accessory buildings are permitted subject to the regulations of Section 3.12 herein.

3.13 FENCES & WALLS

a) Applicability: The requirements of this Section shall apply to fences and walls in all zoning districts except that fences which are erected on a temporary basis such as for construction site or fences which are erected as part of a mineral mining operation are not subject to this Section.

b) Permit Required A Zoning Permit must be obtained from the Zoning Administrator before a fence is installed.

c) Definitions:

1) Fence: A decorative or protective barrier intended to mark a boundary or prevent escape or intrusion, usually made from posts, wire, wood, shrubs, or similar material. In this ordinance a fence is not considered a structure.

2) Substantially open fence: A fence which is at least 40 percent open when viewed perpendicular to the fence.

d) Fencing Generally:

1) Fences shall not be erected within two feet of a public sidewalk.

2) Fences shall not be erected within any public right-of-way in any district.

3) Fences shall be erected with the finished side facing adjacent properties and streets. Support poles shall be placed so that they face the inside of the owner's lot.

4) Fences shall not be erected or maintained in a clear vision area except as described in section 3.07 herein.

5) Corner lot: For corner lots the front yard requirements for fences shall apply to each front yard except that in the R-1 and R-2 zoning districts, a solid fence with a maximum height of six feet may be placed within that front yard which is along the side of the dwelling, provided such fence is at least 10 feet from that front lot line which is parallel to the side of the dwelling.

6) All fences shall be of sound construction and properly maintained so as not to become a visual nuisance, or pose a safety hazard to nearby residents, passerby, or the general public. The use of razor wire as a fence or part of a fence is prohibited.

7) All fences shall be of uniform design, construction and appearance, and sturdily constructed to withstand normal weather conditions. The method of construction and type of materials and design shall be of a kind normally and customarily associated with the uses permitted in the zoning district in which it is located.

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8) **Measurement of Fence Height:** The height of a fence shall be measured as the vertical distance from the highest point of the fence material, excluding any support posts or structures, to the finished grade of the ground immediately beneath the fence material.

9) **Fence Height Exceptions:**

- i. Fences which exceed the maximum height otherwise permitted by the zoning district may be allowed by the Planning Commission as part of the Commission's review of a site plan or as a special land use if it is demonstrated that such fence is necessary for public safety, proper screening, or is necessary for the proper operation of the principal use such as utility sub-stations, tennis courts, golf courses, athletic fields or parks.
- ii. The Planning Commission may also approve fence height exceptions which are not part of a site plan or special land use but which may be needed for farm protection purposes in the A-1 and A/R Zoning Districts. In allowing a greater height the Commission must take into consideration the compatibility of fence with the visual character of the area and the impact on nearby residents and land uses.

e) **Yard and Height Requirements by Zone**

1) **A-1 and A/R Zones:**

- i. *Front yard:* Maximum height of three feet for a solid fence; Maximum height of six feet for a substantially open fence such as chain link, wrought iron, picket, split rail or similar construction.
- ii. *Side and rear yards:* Maximum height of six feet.
- iii. The use of barbed wire strands and electrically charged fences above grade is permitted in all yards.

2) **R-1, R-2, and PUD Zones with Residential Uses:**

- i. *Front yard:* Maximum height of three feet for a solid fence; Maximum height of four feet for a substantially open fence such as chain link wrought iron, picket, split rail or similar construction.
- ii. *Side and rear yard:* Maximum height of six feet.

3) **PS, C-1, and C-2, Zones:**

- i. *Front yard:* Maximum height of three feet for a solid fence; Maximum height of four feet for a substantially open fence such as chain link, wrought iron, picket, split rail or similar construction.
- ii. *Side and rear yard:* Maximum height of eight feet. The use of barbed wire strands is permitted provided the strands are restricted to the uppermost portion of the fence and shall not extend lower than a height of six feet from the average grade.

4) **Industrial, HAR AP, and Pumped Storage Zone:**

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- i. *Front yard:* Maximum height of three feet for a solid fence; Maximum height of six feet for a substantially open fence such as chain link, wrought iron, picket, split rail or similar construction.
- ii. *Side and rear yard:* Maximum height of eight feet.
- iii. The use of barbed wire strands is permitted in all yards provided the strands are restricted to the uppermost portion of the fence and shall not extend lower than a height of six feet from the average grade

3.14 WATER FRONT LOTS

a) A lot with frontage on a lake, river or stream shall have two front yards. The area between the normal high-water mark of the lake, river or stream and the nearest wall of the principal building shall be considered the waterside front yard and the area between the street right of way line and the nearest wall of the principal building shall be considered the street side front yard.

The minimum required front yard setback distance for the zoning district in which the lot is located shall apply to both front yards. For the waterside front yard, the required setback shall be measured from the ordinary high-water mark. For the street side front yard, the required setback shall be measured from the street right of way line.

b) A water front lot does not have a rear yard.

c) The side yard setback requirements shall be as required for the zoning district in which the lot is located.

3.15 FRONT YARD AVERAGE SETBACK

Where the front yard for existing buildings is less than the minimum required front yard for the zoning district of the subject lot, the minimum front yard for a proposed new building on the subject lot shall be the average of the front yards for those existing buildings on the same block and on the same side of the street. There shall be at least two existing buildings on the same block in order to establish an average front yard, otherwise the required minimum yard for the zoning district shall apply. In no case shall the front yard be less than 15 feet. This provision shall not apply to an expansion of an existing building.

3.16 MEASUREMENT OF BUILDING SETBACK

The building setback shall be determined by measuring the distance between a lot line and the nearest wall of an existing or proposed building excluding steps, unenclosed porches, and decks.

3.17 BASEMENT AS RESIDENCE PROHIBITED

The use of an existing basement or the basement of a partially built or planned building as a residence or dwelling unit is prohibited in any zoning district. This provision should not be read to exclude new construction, below grade, to be used as a residence or dwelling unit where such new construction plans have been first approved by the building inspector.

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3.18 STRUCTURES ON A LOT ADJACENT TO PUBLIC STREET

All structures shall be so located on lots as to provide safe and convenient access for servicing, fire protection and required off-street parking.

3.19 ESSENTIAL PUBLIC SERVICE EQUIPMENT

Essential public service equipment as defined herein is a permitted use in all zoning districts and is not subject to the provisions of this Zoning Ordinance.

3.20 ESSENTIAL PUBLIC SERVICE STRUCTURES and BUILDINGS

Essential public service structures and buildings as defined herein are allowed in all zoning districts as a Conditional Land Use subject to the requirements and standards of Chapter 23 of this Zoning Ordinance and the following regulations:

- a) An essential public service structure or building may be located on a parcel or an area leased for such use which does not have frontage on a public or private street and which does not meet the minimum lot area requirement of the zoning district in which such use is proposed.
- b) An essential public service structure or building shall be setback a minimum of 50 feet from any public or private street right of way line, 25 feet from all other lot lines and boundary lines of a leased area and 50 feet from a dwelling unit.
- c) Access to the building or structure shall be provided by a driveway. Such driveway shall be constructed and located to accommodate vehicles and equipment accessing the parcel or leased area, to avoid storm water runoff onto adjoining parcels, and to minimize negative impacts on adjacent residents and properties. Such driveway may be located within an easement which is at least 20 feet wide and which intersects the public street.

3.21 BARRIER FREE ACCESS RAMPS

The minimum setback requirements for structures and permitted encroachments for the zone in which they are located shall apply to barrier free access ramps ('access ramps') to be used by individuals with physical disabilities whenever possible. If, in the opinion of the zoning administrator, the required setbacks prevent the access ramp from being constructed so that it can be reasonably used, the Zoning Administrator shall have the discretion to allow reductions in the setback requirements so that the access ramp can be constructed in a manner to allow it to be usable.

In no case shall the access ramp be closer than five feet from the front yard lot lines and three feet from the side and rear lot lines. The Zoning Administrator shall allow only the minimum deviations from the minimum setback requirements necessary to reasonably permit construction of the access ramp and to ensure the safety of the public, and shall issue a permit documenting his/her findings related to the need for and extent of any reduction(s) in the required setback(s). Access ramps shall comply with all building code requirements as well as all applicable state and federal regulations applying to such access ramps.

3.22 LIGHTING REQUIREMENTS

The following requirements do not apply to holiday and similar decorative lighting.

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- a) Exterior lighting shall be arranged so that illumination is deflected downward and away from adjacent properties and so that it does not interfere with the vision of the motorist along adjacent streets.
- b) Flashing or intermittent lights shall not be permitted.
- c) Excessive lighting of buildings or structures shall be minimized to reduce light pollution
- d) Parking lot lighting shall be as required in Article 27 herein.
- e) Light fixtures on poles or attached to buildings shall be no higher than 20 feet except as otherwise permitted herein and shall be provided with full cut-off fixtures that direct light downward.
- f) In the PS, C-1, C-2, Industrial, Harbor, Airport, and Pumped Storage Zoning Districts and for all non-residential uses in residential zones, the maximum foot candle measurement at the property line shall not exceed 0.5-foot candle if the adjacent property is zoned or planned for residential use. If the adjacent property is zoned or planned for non -residential use or abuts a public right- of-way the maximum foot candle measurement at the property line shall not exceed 1.0-foot candle. Measurement standards of the Illuminating Engineering Society of North America (IES) shall be used.

3.23 SOLAR PANELS

Free standing solar panels shall be considered an accessory structure and shall meet all front, side and rear yard requirements specified for such buildings.

3.24 PARKING OF COMMERCIAL VEHICLES AND COMMERCIAL TRAILERS IN THE R-1 AND R-2 ZONING DISTRICTS

- a) Commercial vehicles which exceed a Gross Vehicle Weight Rating (GVWR) of 12,000 pounds as determined by the manufacturer of the vehicle and any commercial trailer attached to or used by such commercial vehicle shall not be parked or stored in the R-1 or R-2 Zoning Districts.
- b) For purposes of this Section a commercial vehicle is defined as any motor vehicle which meets one or more of the following criteria:
 - 1) The vehicle is designed for and used primarily for the transportation of persons or property for, or in connection with, a business;
 - 2) The vehicle displays the lettering, logo or color design of the business or has visible mechanical attachments or equipment on the vehicle which can be used in the operation of the business such as a crane on a wrecker;
 - 3) The vehicle is licensed for commercial use.
- c) A commercial trailer for purposes of this section is any trailer that is able to be connected to the commercial vehicle and used for commercial purposes in conjunction with the commercial vehicle.

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d) No more than one commercial vehicle which does not exceed the GVWR specified in Section 3.24 (a) and accompanying commercial trailer shall be parked or stored on any parcel in the R-1 and R-2 Zoning Districts. Such parcel shall contain an occupied dwelling unit.

e) However, the above restrictions shall not apply to the temporary parking of commercial vehicles and commercial trailers which exceed the GVWR specified in Section 3.24 (a) and which are engaged in delivery, pick-up, moving, or service to a lot in the R-1 and R-2 Zoning Districts.

3.25 PARKING AND STORAGE OF RECREATIONAL VEHICLES AND EQUIPMENT IN ALL ZONING DISTRICTS

a) Recreational vehicles and equipment as defined herein shall only be parked or stored on a parcel with an occupied principal building.

b) Recreational vehicles and equipment shall not be parked within the required front yard except for loading, unloading and cleaning purposes for a duration not to exceed 72 hours.

c) One recreational vehicle or one recreational piece of equipment may be parked or stored in the side and rear yards but no closer than five feet to a side or rear lot line. Any additional recreational vehicles or recreational equipment pieces shall be parked or stored in the side or rear yards but shall comply with the required setbacks for the principal building on the property.

d) A recreational vehicle shall not be parked or stored for more than 14 consecutive days, or a total of 30 days during any calendar year, if it is being used for living, housekeeping or for sleeping quarters. Such use shall only be permitted on a parcel containing an occupied dwelling unit.

3.26 KEEPING OF ANIMALS

The keeping of household pets, including dogs, cats, fish, birds, hamsters, rabbits, non-poisonous snakes, and reptiles and other animals generally regarded as household pets is permitted in any residential district.

3.27 OUTDOOR FURNACES

a) An outdoor furnace is defined as a furnace, heating system, stove, or boiler that is a separate structure, either above or below ground, not located in a building but which provides heat or hot water for a building or structure located on the same lot.

b) Outdoor furnaces are permitted only in the A-1 and A/R Zoning Districts subject to the issuance of a permit by the Township Building Inspector.

3.28 REQUIREMENTS FOR TOWERS & ANTENNAS WHICH DO NOT EXCEED A HEIGHT OF 35 FEET

a) The following regulations shall not apply to wireless communications support structures and equipment regulated by Section 3.29, satellite dishes regulated by Section 3.30, wind energy systems regulated by Article 29, and towers and antennas which are otherwise specifically regulated by this Zoning Ordinance.

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b) Towers and antennas which do not exceed a height of 35 feet are allowed in all zoning districts subject to approval by the Township Zoning Administrator, the issuance of a building permit as may be required, and compliance with the following regulations:

- 1) An antenna which is no more than 35 feet in height when attached to a new or existing structure such as a tower or pole. The height shall be measured from the top of the antenna to the average grade within 25 feet of the base of the structure.
- 2) An antenna which is attached to or placed on the roof an existing building provided the antenna does not exceed a height of 35 feet as measured from the top of the antenna to the average grade within 25 feet of the base of building or the antenna does not extend above the highest point of the building roof whichever is greater.
- 3) The antenna or tower shall be permanently secured to a stable foundation.
- 4) All antennas and towers must be grounded to protect against damage from lightning.
- 5) A newly installed structure containing an antenna shall be set back from all lot lines a distance equal to its height and shall not be located in the required front yard. The height shall be measured from the top of the antenna to the average grade within 25 feet of the base of the structure. An antenna installed on a building shall be located so that it is setback from all lot lines a distance equal to the height of the antenna as measured from the top of the antenna to the base of the antenna.
- 6) Towers with antennas shall be designed to withstand a uniform wind loading as prescribed in the Township Building Code.
- 7) All signal and remote-control conductors of low energy extending substantially horizontally above the ground between a tower or antenna and a structure, or between towers, shall be at least eight feet above ground at all points, unless buried underground.

3.29 WIRELESS COMMUNICATION TOWERS AND ANTENNAS EXCEEDING 35 FEET.

a) Purpose: It is the intent of this section to regulate those wireless communication towers and antennas which exceed 35 feet in height in accordance with the Federal Telecommunications Act of 1996, the Sequestration Act of 2012 and the Michigan Zoning Enabling Act, PA 110 Of 2006, as amended. Within the general parameters of these laws, this Ordinance also intends to reduce the impact of these communication elements on adjacent land uses by reasonably regulating their location, height, safety, general appearance, and eventual removal. Additionally, this Section intends to promote and encourage the co-location of attached communication antennas on existing towers and support structures. Newly installed wireless communications support structures and equipment which will serve amateur radio operators licensed by the Federal Communications Commission shall be subject to the requirements of Section 3.29(f) herein. However, if such requirements would preclude or prevent the operation of the antenna, then such requirements shall only apply to that extent which allows the antenna to reasonably operate.

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b) Exemptions for antennas only. The following antennas which are installed on an existing wireless communications support structure are exempt from the requirements of this Section but are subject to the applicable building code requirements of the Township Building Code:

- 1) Amateur radio antennas operating under a license issued by the Federal Communications Commission;
- 2) Television reception antennas;
- 3) Antennas used primarily for a farm operation;
- 4) Citizen band radio antennas;
- 5) Short wave antennas;
- 6) Satellite dishes; (See Section 3.30)
- 7) Government wireless communications equipment and support structures which are subject to state and federal law or regulations that preempt municipal regulatory authority.

c) Definitions. As used in this section:

- 1) "Co-locate" means to place or install wireless communications equipment on an existing wireless communications support structure or in an existing equipment compound. "Co-location" has a corresponding meaning.
- 2) "Equipment compound" means an area surrounding or adjacent to the base of a wireless communications support structure and within which wireless communications equipment is located.
- 3) "Wireless communications equipment" means the set of equipment and network components use 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.
- 4) "Wireless communications support structure" means 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.
- 5) "Height" is measured from the top of the antenna to the average grade within 25 feet of the base of the support structure.

d) Co-location of New Wireless Communications Equipment and Modification of Existing Wireless Communications Support Structures Permitted by Right.

The co-location of new or the replacement of existing wireless communications equipment as defined herein and the modification of existing wireless communications support structures shall be permitted by the Zoning Administrator subject to compliance with all of the following requirements and the issuance of the applicable Township building and electrical permits.

- 1) *Application and Submittal Information.* An application for wireless communications equipment and support structures shall include the following information.

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- i. A graphic description of the proposed wireless communications equipment and support structure. This shall include an illustration of the antenna and support structure to be installed and its design including cross section and elevation drawings and a diagram of how the tower/ antenna will be anchored.
 - ii. A statement that the proposed wireless communications equipment support structure will be installed in accordance with the manufacturer’s specifications and applicable Township codes. A set of drawings sealed by a professional engineer for the installation of the wireless communications equipment and support structure shall also be provided.
 - iii. A description of the tower maintenance program.
 - iv. A decommissioning plan explaining the process to be undertaken by the applicant for tearing down the tower and removing all tower equipment, materials and structures and restoring the site so it can be used for uses permitted in that Zoning District.
 - v. Security measures including emergency contact personnel.
 - vi. Documentation that the applicant has indemnity and insurance coverage for the wireless communications equipment and support structure in the event that damage or personal injury occurs or the provider abandons the structure. The specific dollar amount of the indemnity and insurance coverage shall be approved by the Township and the cancellation of such policy shall not be effective without the approval of the Township.
 - vii. All required fees shall be paid to the Township at the time of application.
- 2) *Site Plan Requirements:* The applicant shall also file with the Township three copies of a site plan accurately drawn at a scale of not more than one-inch equals 100 feet containing the following information unless specifically waived by the Zoning Administrator:
- i. The date on which the site plan was prepared as well as the name of the preparer;
 - ii. A north arrow and legal description of the property;
 - iii. The area and dimensions of the parcel containing the tower and antenna including any area leased for the tower;
 - iv. A location map sufficient to show the character of the area surrounding the proposed antenna and the zoning and land use on adjacent properties;
 - v. The height of the tower and antenna and its distance to all property lines;
 - vi. Any buildings or structures existing on the parcel;
 - vii. The distance to the closest building on adjacent property; vitiate location of any overhead transmission lines on the site or on adjacent property which might be affected by the tower;
 - ix. Any tower supporting structures or devices;

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- x. Type and height of fencing to be installed around the tower or an equipment building;
- xi. Elevation drawings of any buildings designed to serve the tower;
- xii. Access road, width and construction standards along with access easement; Ixilan lighting proposed to be located on the tower;
- xiv. Visual impact - The applicant shall demonstrate how the visual impact of the proposed communication towers and attached communication antennas will be reduced through the use of color or other techniques.

3) Procedures:

- i. The application materials shall be reviewed for completeness by the Zoning Administrator or their agent. An application shall be considered complete if it contains all of the information contained in Sections 3.29 (d) (1) and (2).
- ii. Upon approval of the application, the Zoning Administrator shall sign the approved site plans with one copy for the applicant, and one for the Zoning Administrator. The applicant may then proceed to obtain the applicable building and electrical permits.

4) Review Standards: In order to approve the application, the Zoning Administrator must find that the proposed project meets all of the following requirements:

- i. The wireless communications equipment will be co-located on an existing wireless communications support structure or in an existing equipment compound;
- ii. The existing wireless communications support structure or existing equipment compound is in compliance with the Township Zoning Ordinance and applicable building and electrical codes;
- iii. The proposed co-location and any subsequent co-locations will not do any of the following:
 - a. Increase the overall height of the wireless communications support structure by more than 20 feet or 10% of its original height, whichever is greater. The height shall be measured from the top of the antenna to the average ground grade within 25 feet of the base of the wireless communications support structure;
 - b. Increase the width of the original wireless communications support structure by more than the minimum necessary to permit co-location; or
 - c. Increase the area of the existing equipment compound to greater than 2,500 square feet.
- iv. The proposed co-location complies with the terms and conditions of any previous final approvals of the existing wireless communications support structure or wireless communications equipment as previously approved by the Township Planning Commission or Zoning Administrator; and

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- v. Any wireless communications equipment which meets the requirements of subsection (d)(4)(i) and (ii) but does not meet the requirements of subsection (d)(4)(iii) or (d)(4)(iv) shall only be approved if the co-location complies with the requirements of Section 3.29(e).

e) Wireless Communications Equipment and Support Structures Allowed by Conditional Use Permit.

Wireless communications equipment which is proposed to be mounted or attached to a newly installed wireless communications support structure which will exceed a height of 35 feet may be allowed in all zoning districts if a Conditional Use Permit is approved by the Planning Commission subject to the regulations and requirements of this Section and also the general conditional land use review procedures and standards of Article 24 of this Zoning Ordinance. Newly installed wireless communications support structures and equipment which will serve amateur radio operators licensed by the Federal Communications Commission shall be subject to the requirements of Section 3.29(f).

1) Procedures:

- i. An application for a Conditional Use Permit for wireless communications equipment and support structures shall be reviewed for completeness by the Zoning Administrator or their agent. An application shall be considered complete if it contains all of the information contained in Sections 3.29(e) (2) and (3) below. Within 14 days of receiving the application the Zoning Administrator shall notify the applicant in writing of any missing items. Failure to do so shall mean that the Conditional Use Permit application is considered complete (but not approved).
- ii. Once a completed application is received, a public hearing shall be scheduled in accordance with the requirements of Section 32.11 of this Ordinance.
- iii. The Planning Commission shall render a decision on a completed application within 90 days of its receipt or 60 days if the request is subject to 3.29(d)(4)(v). Failure to do so shall result in the approval of the application as submitted.
- iv. Any conditions imposed upon the approval of the Conditional Use Permit must relate directly to the requirements of this Zoning Ordinance and any applicable Township ordinances as well as applicable State of Michigan and federal laws.

2) Application Requirements.

In addition to normal application requirements, an application for wireless communications equipment and support structures which require a Conditional Use Permit shall include all of the following information. The fee paid by the applicant shall not exceed the actual cost to process the application or \$1000.00, whichever is less.

- i. Proposed Use - A complete written and graphic description of the proposed wireless communications equipment and wireless communications support structure. This shall include an illustration of the antenna and support structure to be installed and its

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- design including cross section and elevation drawings and a diagram of how the tower/ antenna will be anchored.
- ii. Location Justification–Written materials which document the need for the proposed location.
 - iii. Ownership Interest -The nature and extent of the applicant's ownership or lease interest in the property, building or structure upon which the facilities are proposed for placement.
 - iv. Other Tower Locations - A map depicting other locations of wireless communications support structures within three miles of the proposed site.
 - v. Co-Locations -Documentation that the applicant has investigated the potential of colocation with other wireless communication service providers or owners of wireless communications support structures located in the Township or neighboring communities and which may meet the coverage needs of the applicant. The documentation must include written evidence that the applicant has had direct communication and response regarding the potential for co-location with the owners/operators of such other wireless communications support structures. All applications for construction of a wireless communications support structure will be required to provide plans for future co-location with other owners/operators at a fair and reasonable rental rate.
 - vi. Engineering Certification and Plans – A statement that the proposed wireless communications equipment and wireless communications support structure will be installed in accordance with the manufacturer’s specifications and applicable Township codes. A set of drawings sealed by a professional engineer for the installation of the wireless communications equipment and wireless communications support structure shall also be provided.
 - vii. A description of the tower maintenance program.
 - viii. A decommissioning plan explaining the process to be undertaken by the applicant for tearing down the tower and removing all tower equipment, materials and structures and restoring the site so it can be used by a use permitted in that Zoning District.
 - ix. Security measures including emergency contact personnel.
 - x. Liability - The applicant shall provide documentation that indemnity and insurance coverage exist for the wireless communications equipment and wireless communications support structure in the event that damage or personal injury occurs or the provider abandons the structure. The specific dollar amount of the indemnity and insurance coverage shall be approved by the Township and the cancellation of such policy shall not be effective without the approval of the Township.

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3) *Site Plan Requirements.* Eight copies of a site plan accurately drawn at a scale of not more than one-inch equals 100 feet containing the information required by Section 3.29 (d)(2) herein. However, a larger scale may be accepted by the Planning Commission depending upon the size of the parcel. The plan shall be prepared and sealed by a professional engineer. The applicant shall also submit information, other than a site plan, as may be required by Article 24, Conditional Land Uses, of this Ordinance, or as may be required by the Planning Commission unless specifically waived by the Planning Commission.

4) *Performance Standards.* Wireless communications equipment and wireless communications support structures shall comply with all of the following requirements:

- i. A wireless communications support structure containing an antenna shall be set back from all property lines a distance of not less than the height of the structure as measured from the base of the structure to the top of the antenna. The Planning Commission may modify the required setback if the Township Engineer determines that the structural integrity of the structure will withstand high winds and impacts and the likelihood of a structure failure is minimal and the Commission determines that a lesser setback will not threaten the safety of adjoining properties or roadways.
- ii. The applicant shall incur all costs associated with the engineering review.
- iii. The tower and antenna shall comply with all applicable state construction and electrical codes and local building permit requirements as well as the with the state and local requirements;
- iv. All tower lighting required by the FAA shall be shielded to the extent possible to reduce glare and visibility from the ground. The tower shaft shall not be illuminated unless required by the FAA, and the minimum FAA lighting standards shall not be exceeded;
- v. The applicant shall provide written documentation of compliance with the Michigan Airport Zoning Act (Public Act 23 of 1950) and the Michigan Tall Structures Act (Public Act 259 of 1959);
- vi. The maximum height of a wireless communications support structure and any attached wireless communications equipment shall be 200 feet. A structure greater than 200 feet may be approved, if in the opinion of the Planning Commission, the applicant has sufficiently demonstrated that the proposed structure and attached equipment in excess of 200 feet will be safe and also reduce the total number of potential similar structures within the Township and the surrounding areas;
- vii. A tower or similar structure which has been constructed to support an antenna which is unused or abandoned shall be removed, along with any associated buildings and structures, by the owner/operator within 90 days of the date of a written notice from the Township. An extension of 90 days may be granted by the Planning Commission or Zoning Administrator as the case may be upon a request

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from the owner/operator citing extenuating circumstances beyond their control in removing the tower within the initial 90-day period;

- viii. In removing the tower, the owner/operator shall comply with the decommissioning plan submitted by the applicant and as approved by the Planning Commission;
- ix. The antenna or tower shall be permanently secured to a stable foundation;
- x. No part of the antenna or tower shall conduct or display any advertising, message or other graphic representation;
- xi. All antennas and towers must be grounded to protect against damage from lightning;
- xii. All towers shall be located so that they do not interfere with any reception in nearby residential areas. In the event a communication tower causes interference, the communication company shall take all steps necessary to correct and eliminate such interference;
- xiii. Tower structures and communication facilities shall incorporate a color scheme which reduces visual impact.

5) *Approval Standards.* In order to approve the application, the Planning Commission shall find that:

- i. The proposed use and structure meet the Conditional Land Use approval standards of Article 24;
- ii. The proposed use and structure meet requirements of this Section 3.29;
- iii. Approval of the project will fill a significant gap in the service coverage of the applicant; and
- iv. That alternate sites or facilities for the wireless communications equipment and wireless communications support structure are not available or feasible.

6) *Conditions of Approval.* Any conditions imposed on an approval must relate directly to this Ordinance, other applicable Township ordinances and codes and applicable County, State and federal laws.

7) *Noncompliance with Section 3.29 (e) Requirement.*

If the Planning Commission determines to deny an application for Conditional Use Permit approval because the proposed project does not meet one or more of the requirements contained in Section 3.29(e) or any of the Conditional Use or site plan standards found elsewhere in this Ordinance the Planning Commission shall nevertheless approve the proposed project if no other alternative tower sites or facilities are available or feasible and at least one of the following applies

- i. A denial would prohibit (or have the effect of prohibiting) the providing of personal wireless services to the area in question;

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- ii. There is not substantial evidence on the record justifying a denial; or
- iii. A significant gap in the existing service coverage exists in the area and the proposed project would close that gap.

Pursuant to any such approval by the Planning Commission, the wireless communication support structure and equipment shall still comply with all of the requirements of Section 3.32(e) and other applicable provisions of this Ordinance except to the extent that the applicant demonstrates that compliance with a particular requirement or regulation would (a) prohibit or have the effect of prohibiting the providing of personal wireless services to the area, or (b) prohibit the applicant from closing a significant gap in existing service coverage to the area involved.

f) Amateur Radio Wireless Communications Equipment and Support Structures.

In order to reasonably accommodate licensed amateur radio operators while ensuring that the public health, safety and general welfare is adequately protected as prescribed by the Federal Code of Regulations, 47 CFR Part 97, as amended, and Order and Opinion (PRB- 1) of the Federal Communications Commission of September 1985 the following requirements shall apply to newly installed amateur radio wireless communications equipment and support structures.

1) Newly installed amateur radio wireless communications equipment and support structures which do not exceed a height of 35 feet are subject to the requirements of Section 3.33 of this Zoning Ordinance.

2) Newly installed amateur radio wireless communications equipment and support structures which exceed a height of 35 feet but not more than 65 feet shall be subject to the approval of the Zoning Administrator according to the following requirements.

- i. Application and Submittal Information. The applicant shall file with the Township an application that shall include the following information:
 - a. A copy of their FCC license;
 - b. An illustration of the antenna and support structure to be installed and its design including cross section and elevation drawings and a diagram of how the tower/ antenna will be anchored;
 - c. A set of drawings sealed by a professional engineer for the installation of the wireless communications equipment and support structure;
 - d. A copy of the applicant's indemnity and insurance coverage for the wireless communications equipment and support structure in the event that damage or personal injury occurs or the provider abandons the structure. The specific dollar amount of the indemnity and insurance coverage shall be approved by the Township and the cancellation of such policy shall not be effective without the approval of the Township.
- ii. Site Plan Requirements: The applicant shall also file with the Township three copies of a site plan accurately drawn at a scale of not more than one-inch equals

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100 feet containing the following information listed in Section 3.29(d) (2) unless specifically waived by the Zoning Administrator.

iii. Performance Standards:

- a. A wireless communications support structure containing an antenna shall be set back from all property lines a distance of not less than the height of the structure as measured from the base of the structure to the top of the antenna.
 - b. The tower and antenna shall comply with all applicable state construction and electrical codes and local building permit requirements as well as the manufacturer's installation requirements provided they do not conflict with the state and local requirements.
 - c. The antenna or tower shall be permanently secured to a stable foundation.
 - d. No part of the antenna or tower shall conduct or display any advertising, message or other graphic representation.
 - e. All antennas and towers must be grounded to protect against damage from lightning.
 - f. All towers shall be located so that they do not interfere with any reception in nearby residential areas. In the event a communication tower causes interference, the owner of the tower shall take all steps necessary to correct and eliminate such interference.
 - g. Tower structures and communication facilities shall incorporate a color scheme which reduces visual impact.
 - h. A tower or similar structure which has been constructed to support an antenna which is unused or abandoned shall be removed, along with any associated buildings and structures, by the owner/operator within 90 days of the date of a written notice from the Township.
 - i. An extension of 90 days may be granted by the Zoning Administrator upon a request from the owner/operator citing extenuating circumstances beyond their control in removing the tower within the initial 90-day period.
- iv. Approval Procedure: The application materials shall be reviewed for completeness by the Zoning Administrator or their agent and for compliance with the requirements of this Section 3.29(f). Upon approval of the application, the Zoning Administrator shall sign the approved site plans with one copy for the applicant and one for the Zoning Administrator. The applicant may then proceed to obtain the applicable building and electrical permits.
- v. Newly installed amateur radio wireless communications equipment and support structures which exceed a height of 65 feet shall be subject to the procedures and requirements of this Section 3.29(e) in addition to providing a copy of the FCC license and justification for the requested tower height.

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3.30 SATELLITE DISH ANTENNAS

- a) Satellite dish antennas or similar devices 24 inches or less in diameter may be located in the front yard, the rear yard or a side yard and may also be attached to the exterior walls or to the roof of the principal structure; provided that the building inspector has inspected and determined it to be properly anchored. Any such satellite dish antenna or similar device that is attached to a roof shall not extend more than 26 inches above the roof peak, or the roof line if a flat roof, except that the height limitation shall not apply in commercial or industrial districts.
- b) Any satellite dish antenna or similar device exceeding 24 inches in diameter may be located in the rear yard or a side yard; provided that, in no case shall any such satellite dish antenna or similar device extend beyond the established front building line of the principal structure. In commercial and industrial districts, satellite dish antennas and similar devices exceeding 24 inches in diameter may be attached to the roof of a commercial or industrial building, provided that the building inspector inspects and determines that such installation is adequately supported and properly anchored.
- c) Satellite antennas shall meet all yard setbacks as required by ordinance.
- d) A satellite antenna shall not be used for, or contain, any commercial or residential advertisement or graphics.
- e) No satellite antenna shall exceed a height of 22 feet from the immediately adjacent ground level to the top edge of the antenna except as provided for under subsection (a) of this section.
- f) Except for satellite dish antennas or similar devices that are 24 inches or less in diameter, any structure covered in this section shall require a building permit prior to erection. The application for a permit must include construction drawings showing details on anchoring, and name and address of installer.

3.31 CONTROL OF HEAT, GLARE, FUMES, DUST, SAND, NOISE, VIBRATION AND ODORS

Every use shall be so conducted and operated that it is not obnoxious, dangerous, or a nuisance by reason of heat, glare, fumes, odors, dust, sand, noise or vibration beyond the lot on which the use is located, except those uses necessary to protect the general public health, safety and welfare. All land shall be stabilized in such manner as is necessary to prevent erosion, sand blows, or other soil conditions which cause dust, sand, dirt or other materials to be blown, washed or otherwise transported to adjoining lots or parcels.

3.32 TEMPORARY USES OR STRUCTURES REQUIRING ZONING ADMINISTRATOR AUTHORIZATION

- a) Construction site; temporary yard. Upon application, the Zoning Administrator may issue a permit for a temporary yard for construction materials and/or equipment which is both incidental and necessary to construction at the site where located. Each permit shall be valid for a period of not more than six calendar months and shall be renewed by the Zoning Administrator for four additional successive periods of six calendar months or less at the same location if such building or yard is still incidental and necessary to construction at the site where located.

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b) Subdivision or housing project. Upon application, the Zoning Administrator may issue a permit for a temporary office which is both incidental and necessary for the sale or rental of real property in a new subdivision or housing project. Each permit shall be valid for a period of not more than six calendar months and shall be renewed by the Zoning Administrator for four additional successive periods of six calendar months or less at the same location if such office is still incidental and necessary for the sale or rental of real property in a new subdivision or housing project.

c) Temporary dwelling unit, construction office or security building. Upon application, the Zoning Administrator may issue a permit for a secondary structure as follows. In any district on any single lot where a structure intended for a permitted principal use is being constructed or altered, a secondary structure may be permitted and occupied as a temporary dwelling unit, construction office or security building provided that such secondary structure complies with all other applicable rules and regulations and also provided that occupancy of such secondary structure ceases within 14 days of the occupancy of the principal use structure.

d) Performance bond. As a condition to the issuance of a permit under subsection (b) or (c) of this section, the Zoning Administrator may require the posting of a performance bond issued by a corporate surety or commercial insurance carrier in such amounts that will ensure the timely removal of any temporary office and/or secondary structure authorized pursuant to subsection (b) or (c) of this section.

3.33 HEALTH DEPARTMENT APPROVAL

No permit shall be issued for the construction of a building or structure which is to have drinking water and/or sanitary facilities located therein and which is to be located on a lot which is not served by both public water and sewer facilities if its water supply and/or sewage disposal facilities, as the case may be, do not comply with the rules and regulations governing waste and sewage disposal of Manistee-Mason District Health Department.

3.34 REQUIREMENTS FOR ALL SINGLE-FAMILY DWELLINGS

It is the intent of this section to set forth minimum standards for single-family residential dwellings. These standards are based on existing housing conditions and building requirements within the Township and shall be in addition to other standards provided for within this ordinance. All single-family residential dwellings shall comply with the following standards:

- a) A dwelling must meet the minimum restrictions and requirements of this ordinance for the zone in which it is located.
- b) All dwellings shall have a minimum width of 20 feet as measured from across each front, side, and rear elevation.
- c) All dwellings shall comply with the Township building, electrical, plumbing, mechanical, energy and similar codes. Where said dwelling is a mobile home, the mobile home must either be:

- 1) New and certified by the manufacturer and/or appropriate inspection agency as meeting the Mobile Home Construction and Safety Standards of the Department of Housing and

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Urban Development, or any similar successor or replacement standards which may be promulgated; or

2) Used and certified by the manufacturer and/or appropriate inspection agency as meeting the standard referenced in subsection (c)(1) above, and found, on inspection by the building inspector or his designee, to be safe and fit for residential occupancy.

d) All dwellings shall be firmly attached to a permanent foundation constructed on the site in accordance with the Township building code and shall have a wall of the same perimeter dimensions of the dwelling and constructed of such materials and type as required in the applicable building code for single-family dwellings. In the event that the dwelling is a mobile home, as defined herein, such dwelling shall be installed pursuant to the manufacturer's setup instructions and shall be secured to the premises by an anchoring system or device complying with the rules of the Michigan Mobile Home Commission and shall have a perimeter wall as required above.

e) No dwelling shall have any exposed towing mechanism, undercarriage or chassis.

f) All dwellings shall be connected to a public sewer and water supply or to such private facilities approved by the Manistee-Mason District Health Department or its designee.

g) All dwellings shall have a storage capability area in a basement or crawl space located under the dwelling, in an attic area, in closet areas, or in a separate structure of standard construction similar to or of better quality than the principal dwelling, which storage area shall be equal to a minimum of ten percent of the square footage of the dwelling or 100 square feet, whichever shall be less. Basements, crawl spaces, and separate structures shall be constructed so as to prevent the entrance of rodents, rain, and surface water drainage, and so as to be reasonably free from dampness to prevent conditions conducive to decay or deterioration of the structure, dwelling, or contents.

h) Dwellings shall have a maximum length to width ratio of three to one.

i) Dwellings shall be constructed with construction materials of consistent quality. Hybrid construction combining two or more different off-site constructed dwellings is prohibited.

j) Dwellings shall meet or exceed all applicable roof snow loads and strength requirements.

k) The foregoing standards shall not apply to a mobile home located in a licensed mobile home park except to the extent required by state or federal law or otherwise specifically required by this ordinance.

l) All construction required herein shall be commenced only after a building permit has been obtained in accordance with the applicable Township building code provisions and requirements.

3.35 UN-WHOLESOME SUBSTANCES

a) No unwholesome substance shall be deposited, dumped, accumulated, or permitted to exist or remain on any property, public or private, in any district in the Township except that this section shall not apply to the following uses:

1) Landfills properly licensed and permitted under federal, state and/or local law or

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ordinance.

2) Storage or salvage yards as permitted and authorized under this ordinance.

3) An automobile body only to the extent that such automobile body is not situated in the front yard and is completely screened or fenced to conceal the automobile body from public view or, alternatively, is housed within an enclosed structure.

4) Noxious weeds to the extent they exist on parcels of one-half acre or more in size.

b) Any unwholesome substance existing on any property within the Township shall be cleaned up, removed to a licensed landfill, deposited in proper receptacles for disposal or waste hauling, stored, cut, eradicated or otherwise lawfully disposed of within the time specified in the notice provided for in subsection (c) of this section.

c) Determination of the existence of an unwholesome substance shall be made by the Zoning Administrator and/or Township Supervisor. Upon such determination the Zoning Administrator or Township Supervisor shall send by certified mail, return receipt requested, a written notice to the owner of record and/or occupant of the parcel, together with posting the notice on the premises. The notice shall identify the parcel, describe the unwholesome substance and its location on the parcel, and direct and order the removal of the unwholesome substance within a period of time not less than ten days from the date of the notice; provided that, removal of the unwholesome substance can be required in a lesser number of days, upon the determination of the Zoning Administrator or Township Supervisor that the unwholesome substance presents an imminent threat to health, safety and welfare and such determination is stated in the notice.

d) Failure to remove an unwholesome substance within the time specified in the notice shall be a violation of the zoning ordinance and a nuisance per se.

3.36 AIRPORT ZONING REGULATIONS

In any zoning district that abuts the Mason County Airport, lands may be located within an airport approach plan or an airport hazardous area plan, or both, adopted by the Michigan

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Aeronautics Commission and/or an authority, board or Commission of Mason County under the provisions of the Airport Zoning Act (MCL 259.431 et seq.). The use and development of such lands and the construction or alteration of structures on such lands shall also be subject to the airport zoning regulations adopted by the Michigan Aeronautics Commission and/or Mason County. In the event of a conflict or inconsistency between the provisions of this ordinance and such airport zoning regulations and plans established pursuant to the Airport Zoning Act (MCL 259.431 et seq.), the latter shall control. In any event, the most restrictive provisions under this ordinance or the airport zoning regulations shall apply.

3.37 DECORATIVE DEVICES; ALL DISTRICTS

A decorative device may be placed in the required front yard but no closer than 25 feet from the right-of-way line of the abutting roadway or street. Such decorative device shall contain no advertising matter. If illuminated, the source of light shall not be visible from the abutting roadway or street and shall not be of the flashing or intermittent type.

3.38 FLEA MARKETS AND SIMILAR OUTDOOR SALES ACTIVITIES

- a) A fence or other means acceptable to the Planning Commission shall be installed to prevent trash, paper and debris from blowing off the site.
- b) The sale of explosive or highly volatile material shall be prohibited.
- c) The use shall comply with all requirements of the Manistee-Mason District Health Department.

3.39 HOME OCCUPATIONS

- a) For any home occupation request, a statement of intent form shall be submitted to the Zoning Administrator, which details the scope of the home occupation. This form shall accompany the application.
- b) No more than one other person other than members of the family residing in the dwelling shall be engaged in the conduct of the home occupation.
- c) The use of the dwelling unit or related structure for a home occupation shall be clearly incidental and subordinate to its use for residential purposes. The home occupation shall not occupy more than 20 percent of the aboveground floor area of the dwelling unit or 300 square feet, whichever is greater. This requirement shall apply whether the home occupation is contained wholly within the dwelling unit or utilizes a garage.
- d) There shall be no change in the outside appearance of any building or premises, or other visible evidence of the conduct of such home occupation.
- e) The home occupation shall be operated in its entirety within the principal dwelling unit, attached or detached garage. Pre-final product materials and the final product of the home occupation shall not be displayed in a manner that is visible to the general public.
- f) The dwelling unit, or related structure, housing the home occupation shall meet the minimum dimensional regulations as required pursuant to the district in which the home occupation is to be located.

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g) There shall be no sale of products or services except as are produced on the premises by such occupation. This does not preclude the storage of products not produced on the premises provided that such storage does not exceed the above-stated floor area requirement or constitute a reasonably foreseeable hazard to the occupants or others.

h) No traffic shall be generated by such home occupation in volumes greater than 20 percent of the average volume normally expected for the type of dwelling unit to which the home occupation is associated.

i) No equipment or process shall be used in such home occupation which creates noise, vibration, glare, fumes, odors, or electrical interference detectable to the normal senses off the premises, if the occupation is conducted in a single-family dwelling unit or its associated garage. No equipment or process shall be used which creates visual or audible interference in any radio or television receivers off the premises, or cause fluctuation in line voltage off the premises.

j) Medical marijuana primary caregivers home occupation shall be subject to the following:

1) All the above requirements shall apply except for subsection (b) of this section.

2) A primary caregiver home occupation is the only primary caregiver activity permitted in Pere Marquette Charter Township. All other medical marijuana operations, businesses and establishments, including without limitation dispensaries, storefronts, cooperatives, bars, clubs and similar operations for the combined cultivation, processing, storing, dispensing, delivery, consumption and/or use of medical marijuana by two or more primary caregivers and/or qualifying patients, are prohibited.

3) No more than one person residing in the dwelling shall be permitted to be a primary caregiver for those who do not reside in the dwelling.

4) Except as otherwise provided, a primary caregiver home occupation shall be permitted for any dwelling in the Township provided such activity is conducted in accordance the Michigan Medical Marijuana Act (MCL 333.26421 et seq.), the rules promulgated thereunder, and the provisions of this ordinance.

5) A primary caregiver home occupation shall not be located within 1,000 feet of the property of a school as provided under federal drug-free school zone laws.

6) Any modification to the dwelling or associated garage containing a primary caregiver home occupation shall conform to applicable building codes.

7) In addition to subsection (d) of this section, a primary caregiver home occupation shall not bear on the premises any sign, emblem or other mark indicating the presence of the activity.

8) This subsection does not grant a primary caregiver any immunity for violation of any applicable state or federal laws.

9) This subsection shall not apply to the medical use of marijuana for on-site patient use only in a state-licensed health care facility, a state-licensed residential care facility for the elderly or infirm, or a residential hospice care facility, which are otherwise in compliance with state law and this ordinance.

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3.40 OUTDOOR STORAGE

a) Refuse storage. No person, firm or corporation shall store refuse on any premises in Pere Marquette Charter Township unless such materials be are completely contained within watertight containers with tight-fitting covers.

- 1) Containers, including dumpsters and cans, used for the storage of refuse, and not as a temporary use, shall be located behind the building structure and shall be maintained in a clean and sanitary condition, and shall be tightly covered except at such times as material is being placed within or removed from containers.
- 2) Containers shall be of sufficient size to handle intended usage.
- 3) No refuse shall be deposited on a lot or property in such form or manner that they may be moved off the lot or property by natural causes or forces.
- 4) Refuse shall not be allowed to accumulate on a lot or property in such a manner as to be unsightly, constitute a fire hazard or contribute to unsanitary conditions.

(b) Storage Yards to be graded. Storage yards and/or areas shall be graded to provide adequate drainage and shall be surfaced with compacted stones or gravel or with a hard-surfaced material. All fencing and screening shall be maintained in good physical and aesthetic condition and all fire lanes shall be kept clear and unobstructed.

(c) Parts 111 and 115 of the Natural Resources and Environmental Protection Act (MCL 324.11101, et seq., 324.11501, et seq.). Nothing in the foregoing sections shall abrogate responsibility for compliance with Parts 111 and 115 of the Natural Resources and Environmental Protection Act (MCL 324.11101, et seq., 324.11501, et seq.) and the sanitary landfill requirements of this ordinance.

3.41 SHORT-TERM OPEN-AIR BUSINESS

a) The term "short-term open-air businesses" means the sale of Christmas trees, picture sales, flower sales, firework sales, food sales, and other sales operations similar to the aforementioned as determined by the Zoning Administrator, but shall not include flea markets.

b) The operation of any short-term open-air business within the Township shall be permitted only in the C-1, C-2 and C-3 districts of the Township and subject to:

- 1) The yard requirements of the district; and
- 2) Payment of the permit fee established by the Township board from time to time.

c) Short-term open-air business operations require written permission from the owner of the lot, parcel or tract intended for the site of operations on a form approved by the Zoning Administrator.

d) A \$100.00 deposit must be made to the Township to ensure that cleanup of the sales site is accomplished within seven days after the expiration of the sales permit. If the cleanup is not completed in that time, the deposit is forfeited with said funds used to cover necessary cleanup costs.

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e) Site plan review. The applicant must submit a simple site plan sketch to be approved by the Zoning Administrator that conforms with the applicable section of this ordinance as determined by the Zoning Administrator.

f) Food sales shall require demonstrated compliance with regulations of the Manistee-Mason County Health Department.

g) Signs. Sign display shall be regulated by Article 28 herein.

h) The operation of the short-term open-air business may be allowed by the Zoning Administrator for a period of not more than 30 consecutive days. One ten-day extension may be allowed upon evidence of special or unusual circumstances. All short-term sales operations and extensions must obtain approval from the Zoning Administrator.

i) This section shall not apply to:

1) Sales which are a bona fide part of, and customarily associated with, a business presently existing on the site.

2) Farm markets as permitted herein.

3.42 SWIMMING POOLS

a) No swimming pool (referred to as "pool" in this section) shall be constructed, erected or installed on any lands in the Township unless a permit therefor has first been obtained from the Building Inspector.

b) The outside edge of the pool wall shall not be located nearer than ten feet to any lot lines.

c) Each pool shall be enclosed by a fence or wall in accordance with the Township building code.

3.43 WAREHOUSING AND INDOOR STORAGE AREAS

a) The Township may require perimeter security fencing and landscaping around the site.

b) No toxic, hazardous, or flammable liquids or chemicals may be stored unless the applicant satisfactorily demonstrates to the Planning Commission that the health, safety, and welfare of adjacent property owners will not be impaired as a result of said storage.

c) Copies of any required state or federal environmental or safety permits associated with product storage shall be filed with the Township.

3.44 LOTS SERVED BY AN ACCESS EASEMENT

Up to two lots may be created with no frontage on a public street in the A-1, A/R, R-1, and R-2 Zoning Districts but such a lot or lots shall have frontage on an access easement according to the following requirements:

a) Easement Requirements.

1) Access to the lot must be provided by an access easement which connects to a public street. The easement must be a minimum of 20 feet wide. The access lane or driveway serving the lot shall be located within this easement.

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- 2) A lot shall have frontage on the access easement and shall meet the minimum lot width and area requirements for the zoning district in which the lot is located.
- 3) The width of the driving surface serving one lot shall be a minimum of 10 feet wide. The width of the driving surface serving two lots shall be a minimum of 16 feet wide.
- 4) The access lane or driveway serving two lots shall be constructed with a minimum sand sub-base of 12 inches topped with a minimum of six inches of 22A road gravel or an equivalent surface as may be approved by the Planning Commission.
- 5) The edge of the driving surface shall be a minimum of 25 feet from any lot line of an existing parcel which abuts the parcel containing the access easement.

b) Application Requirements.

- 1) An application for an access easement must be first be reviewed and approved by the Planning Commission.
- 2) An application to establish an access easement shall be filed with the Township Zoning Administrator along with a fee as set by the Township Board. The application shall contain or be accompanied by the following information:
 - i. The name or names of the owners of the property containing the proposed access easement.
 - ii. Permanent parcel number and legal description of the parent parcel/tract.
 - iii. A description of the proposed development.
 - iv. Legal description of the access easement which shall include wording granting the easement from the property owner.
 - v. Legal description of the lot or lots to be created.
 - vi. A permit or written approval from the Mason County Road Commission **or** Michigan Department of Transportation approving the connection of the private road to the public street.
 - vii. Ten copies of an accurate and scaled drawing which shall illustrate at a minimum the following information:
 - a. The proposed location of the property within the Township; adjacent properties; the proposed lots, including property line dimensions, acreage and any building and improvements which may be existing at the time of application along with their set-backs from proposed property lines; existing buildings within 100 feet of the property and access easement and the access easement with dimensions showing connection to the public street.
 - b. Additional information which may be required by the Planning Commission to assist in a proper review of the application

c) Review and Approval

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- 1) The Planning Commission shall review the application material to determine compliance with the standards and requirements for access easements as contained herein and may consult with the Township Fire Chief, Township Attorney, Engineer or Planner who shall provide written reports as requested by the Commission.
- 2) *Review Standards.* In reviewing the application for an access easement, the Planning Commission, shall consider the following factors as well as other factors they may deem appropriate:
 - i. The impact of the proposed access easement and associated development on nearby properties;
 - ii. The potential for conflicts between the proposed land uses and existing land uses;
 - iii. Whether the health, safety, and general welfare of persons or property using, or affected by the access easement will be adequately protected;
 - iv. Compliance with the application requirements of this section.
- 3) The Planning Commission shall approve, approve with conditions or deny the application based on compliance with the standards of Section 3.38 (c)(2) and the applicable requirements of this Ordinance.
- 4) If the Commission approves the application two copies of the approved plans shall be signed and dated for approval by the Zoning Administrator, one copy shall be kept by the applicant, and one by the Township.
- 5) The applicant may then seek approval for a land division as required by applicable Township ordinances. Upon approval, the applicant shall record the land division and access easement and provide a copy to the Township Zoning Administrator. Following this the applicant may construct the access easement and apply for a building permit.

3.45 PRIVATE ROAD REQUIREMENTS

a) Definition: A private road is any road which is privately owned and maintained and which provides or is intended to provide the primary means of vehicular ingress and egress to a minimum of three or more lots, principal buildings, or dwelling units or combination thereof and which is located within a private road easement as defined herein.

b) Applicability:

Private roads are permitted in the A-1, A/R, R-1, R-2 and PUD Zoning Districts as a Conditional Land Use subject to approval by the Pere Marquette Township Planning Commission in accordance with the requirements of Article 24 herein.

If the applicant is also seeking approval for a private road as part of a PUD, plat, or site condominium, the requirements of Section 3.45 herein shall apply except that a separate Conditional Use Permit application and public hearing shall not be required and the private road may be reviewed as part of the PUD, plat or site condominium application.

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c) Existing Private Roads:

- 1) After the effective date of this amendment, an existing private road shall not be extended to provide access to a lot, dwelling or building which was not provided access by the private road as of the effective date of this amendment, unless the existing private road is brought into compliance with the minimum standards for private roads as required by this Section.
- 2) Existing private roads may be improved, upgraded and maintained but not extended without being subject to these regulations.
- 3) Vacant lots existing as of the effective date of this Zoning Ordinance which are provided access by an existing private road may be issued a building permit subject to compliance with all other applicable Township regulations.

d) Application Requirements:

An application to establish, construct or extend a private road shall be filed with the Township Zoning Administrator along with a fee as set by the Township Board. The application shall contain or be accompanied by the following information:

- 1) The name or names of the owners of the property containing the proposed private road.
- 2) Permanent parcel number and legal description of the parent parcel/tract.
- 3) A description of the proposed development.
- 4) Ten copies of a site plan sealed by the architect, landscape architect, engineer or professional surveyor who prepared the plan which shall illustrate at a minimum the following information.
 - i. The proposed location of the property containing the private road within the Township; adjacent properties; the proposed lots, including property line dimensions, acreage and any building and improvements which may be existing at the time of application along with their set-backs from proposed property lines; existing buildings within 100 feet of the property.
 - ii. Any un-buildable or un-developable areas on the property (wetlands, slopes over 20 percent, creeks, rivers, ponds,) and any related utility and drainage easements.
 - iii. Existing and proposed contour elevations of the property and to a distance 50 feet outside the boundary lines of the property at two feet intervals.
 - iv. The precise location, elevations, grades, dimensions, specifications and design of the private road and any proposed extensions of the street, existing or proposed curb cuts and the location and distance to any public street which the private road is to intersect. A “Standard Cross Section and Layout” drawing shall be provided to illustrate this information.
- 5) A Maintenance Agreement containing the information required by Section 3.45(i) herein.

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6) A permit or written approval from the Mason County Road Commission **or** Michigan Department of Transportation approving the connection of the private road to the public street.

e) Procedure for Permitting of a Private Road:

1) *Public Hearing.* Private roads shall be reviewed by the Planning Commission following a public hearing. A notice of the hearing shall be as required by Section 32.11 herein. If a private road is part of a request for a site condominium, platted subdivision, Planned Unit Development, or Open Space Preservation Project, the private road shall be included in the public hearing for such requests.

The Planning Commission shall review the application material to determine compliance with the standards and requirements for private roads as contained herein and may consult with the Township Fire Chief, Township Attorney, Engineer or Planner who shall provide written reports as requested by the Commission.

2) *Review Standards.* In reviewing the Special Land Use Permit application for a private road, the Planning Commission, shall consider the following factors as well as other factors they may deem appropriate:

- i. The impact of the proposed private road and associated development on nearby properties;
- ii. The impact of the proposed private road and resulting developments on the long-range planning goals of the Township;
- iii. The potential for conflicts between the proposed land uses and existing land uses, such as a residential development in an agricultural area;
- iv. Whether the health, safety, and general welfare of persons or property using, or affected by the private road will be adequately protected;
- v. The impact on public roads created by the potential for traffic congestion, potential intersection interference or other similar or related problems.

3) Following the public hearing the Planning Commission shall approve, approve with conditions or deny the application based on compliance with the standards of Section 3.45 (e)(2) and the applicable requirements of this Ordinance.

5) If the Commission approves the application two copies of the approved private road plans shall be signed and dated for approval by the Zoning Administrator, one copy shall be kept by the applicant, and one by the Township.

6) *Construction Permit Issuance.* Upon payment by the applicant of any required escrow fees, the Zoning Administrator shall issue a Construction Permit letter for the construction of the private road. This Construction Permit is not a Final Private Road Permit and does not authorize the construction of any buildings on lots to be served by the private road. However, a building permit may be issued per the requirements of Section 3.45 (f)(b) herein before the private road is constructed.

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The Construction Permit is valid for a period of one year from the date of approval. If construction of the private road has not commenced before this date, the permit shall expire. The Township Board, however, may grant an extension of the time period for not more than one year if the applicant files a request for an extension with the Zoning Administrator before the permit expires and the Board finds that an extension is warranted. If a permit expires a new Construction Permit shall be required before construction can begin.

7) *Final Private Road Permit Requirements.* Upon completion of construction of the private road, the applicant shall provide to the Zoning Administrator:

- i. A letter from a registered professional engineer or surveyor that the road has been constructed in compliance with the approved private road plans;
- ii. Documentation that the road maintenance agreement, access easement and any deed restrictions have been recorded with the Mason County Register of Deeds office;
- iii. A copy of the approved private road plans in an electronic format as approved by the Township.

8) *Final Private Road Permit Issuance.* Upon approval of items required in Section 3.45(e)(7) and payment of all required fees and escrow amounts, the Zoning Administrator shall issue a letter constituting the Final Private Road Permit to the applicant.

f) Permits for Buildings on Private Roads.

A building permit shall not be issued for any building, dwelling or structure which derives its primary access from a private road unless:

- 1) The Zoning Administrator has issued a Final Private Road Permit, or
- 2) The applicant for the building permit or the owner(s) of the private road right-of-way have provided the Township with an irrevocable letter of credit in an amount determined by the Township to ensure construction of the private road in accordance with the approved private road construction permit. The letter of credit shall be valid for a period of one year from the date of the issuance of the building permit. The Township shall have the right to draw on the funds if the private road is not completed to the satisfaction of the Township prior to the expiration of the letter of credit. No more than two building permits shall be issued under this sub section and no occupancy permits shall be issued until the private road is constructed and a Final Private Road Permit is issued.

g) Construction Standards for Private Roads.

- 1) The standards set forth in Section 3.39 (h), Minimum Standards for All Private Streets.
- 2) The construction standards and right of way width standards of the Mason County Road Commission for a Local Road Section.

h) Minimum Standards for All Private Roads.

- 1) The driving portion of the roadway shall be parallel to and centered within the easement as much as possible.

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- 2) A lot shall have frontage on the private road which is at least equal to the minimum lot width required for the zoning district in which the lot is located.
- 3) A private road shall be at least 250 feet offset center to center from or located directly in line with other public or private road.
- 4) All private roads shall be given a street name that is not the same or similar to any other street name in the county. A street sign bearing the street name of the private road meeting Mason County Road Commission standards as to design, location, and maintenance shall be erected and maintained where such private road adjoins any public street. Private road segments which do not intersect a public street shall also be marked with a street sign but such signs do not need to conform to Road Commission standards.
- 5) The area in which the private road is to be located shall be cleared and kept clear of vegetation for a minimum width of 28 feet. All overhead branches extending over the travel surface of the private road shall be trimmed and maintained to a height of 14 feet above the private road.
- 6) A stop sign shall be installed at the intersection of the private road with the public street. The sign shall comply with the requirements of the Mason County Road Commission.
- 7) A dwelling unit which derives its primary access from a private road shall display a house number in a manner so that the number is at all times readily visible from the private road. The house numbers shall be a minimum of three inches in height.
- 8) The edge of the private road driving surface shall be no closer than 100 feet from any existing dwelling unit located on a parcel adjacent to the private road.
- 9) Private roads shall have a bituminous paved approach where the private road intersects a public road in accordance with Mason County Road Commission standards.
- 10) Maximum street grades shall be ten percent.
- 11) All private roads shall be constructed with sufficient slopes and grades as to provide adequate storm water and road drainage and shall provide adequate culverts and drainage courses and waterways.
- 12) Under no circumstances shall drainage from a private road, snow from plowing or sand and gravel from road construction or maintenance be allowed to encroach onto a neighboring parcel.
- 13) All private roads serving 30 or more parcels shall have two means of ingress and egress to a public road.
- 14) Parcels with frontage on both a public road and a private road shall utilize only the private road for ingress and egress to the parcel.
- 15) If a private road is part of a Planned Unit Development the standards for private roads contained herein may be modified by the Township Board following a recommendation from the Planning Commission if the modifications are necessary to

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achieve the intent and purposes of the PUD zoning district relative to the project under consideration.

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i) Private Road Maintenance Agreement

The applicant(s) and/or owner(s) of the proposed private road shall provide to the Township Zoning Administrator a recordable or recorded street maintenance agreement, access easement agreement, and/or deed restrictions which shall provide for the perpetual private (non-public) maintenance of such streets and/or easements to a necessary and reasonable standard to serve the parties having an interest in the private road. These documents shall include provisions for the following:

- 1) A method of financing the maintenance of the private road and/or easements in order to keep the street in a safe and usable condition;
- 2) A method of apportioning the costs of maintenance and improvements and an enforcement mechanism to ensure that such maintenance and improvements are carried out;
- 3) A notification that no public funds of the Pere Marquette Charter Township will be used to build, repair, or maintain the private road;
- 4) Easements to the public for purposes of emergency and other public vehicles for whatever public services are necessary and easements for public and private utilities;
- 5) Each of the owners of property utilizing the street shall refrain from prohibiting, restricting, limiting or in any manner interfering with normal ingress and egress and use by any of the other owners and ensuring that the property owners shall have a mechanism provided to enforce these rights. Normal ingress and egress and use shall include use by family, guests, invites, tradesmen, and others bound to or returning from any of the properties having a right to use the street.

After this document has been approved by the Township Zoning Administrator, it shall be recorded at the Mason County Register of Deeds Office and a copy furnished to the Zoning Administrator before the Final Private Road approval is given.

3.46 OPEN SPACE DEVELOPMENT PROJECTS.

a) Purpose and intent. This section applies to open space development projects and is intended to provide a property owner with the option to develop property zoned for residential development in a manner that allows no more than 50 percent of the property to be developed with the same number of single-family dwelling units that could otherwise be developed on the entire property, provided that the remaining property (at least 50 percent of the property) is permanently preserved as open space in an undeveloped state, in accordance with the Zoning Act (MCL 125.3101 et seq.). These provisions are intended to result in land development substantially consistent with the underlying zoning, but to provide a degree of flexibility in design to meet the unique natural conditions of a particular site; to permit innovation in design to create a higher quality development than could otherwise be possible with the underlying zoning, and to preserve open space.

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b) Open space development project. Notwithstanding any provisions of this ordinance to the contrary, a master parcel that meets the eligibility requirements of subsection (c) of this section may be developed as a conditional use, at the option of the property owner, on a maximum of 50 percent of the area of the master parcel with the same number of dwelling units that the Township determines could otherwise have been developed on the entire master parcel under existing Township ordinances and federal, state and county laws, rules and regulations, while perpetually preserving a minimum of 50 percent of the area of the master parcel as open space.

c) Eligibility requirements. A property owner may exercise the open space preservation option only with respect to a master parcel that meets the following requirements.

- 1) The master parcel must be zoned for residential development. For purposes of this section, the phrase "zoned for residential development" shall mean property in any zoning district that permits single-family dwellings.
- 2) The master parcel must be zoned at a density equivalent to:
 - i. Two or fewer dwelling units per acre if the master parcel is not served by a public sewer; or
 - ii. Three or fewer dwelling units per acre if the master parcel is served by a public sewer.
- 3) The development of the master parcel must not be dependent upon the extension of a public sewer or public water supply system, unless the development of the master parcel without the exercise of the option would be dependent upon the extension of a public sewer or public water supply system.
- 4) The master parcel, in whole or in part, must not have previously been developed under the open space preservation option. Once a property owner has exercised the open space preservation option with respect to a master parcel, no portion of that master parcel shall be eligible for any further or future open space preservation options.

d) Administration and procedure.

- 1) The applicant must demonstrate that master parcel proposed for the open space development project contains unique site conditions, significant natural features, large open spaces, or active agricultural land, which would be otherwise developed, but will be preserved as a result of the open space development project.
- 2) An open space development project must obtain authorization through the process for issuance of a conditional use permit as provided in Article 24 herein.
- 3) In addition to all other requirements to which any conditional use must conform under this ordinance, an open space development project shall meet minimally all standards in this section and all applicable federal, state, county and Township laws, ordinances and regulations.
- 4) Application for review and approval of an open space development project shall be initiated by filing with the Zoning Administrator a completed application form, payment of the application fee as set by the Township board, submission of nine copies of the preliminary site plan that complies with subsection (g) of this section, and submission of nine copies of a parallel plan that complies with subsection (h) of this section.

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5) The Zoning Administrator shall review the application, the preliminary site plan and the parallel plan to determine their completeness and to provide any appropriate comments to the Planning Commission. If the application, the preliminary site plan, and/or the parallel plan are not complete, such documents shall be returned to the applicant with a written explanation of any deficiencies. A corrected application, preliminary site plan, and/or parallel plan may be filed without payment of a new application fee if submitted within six months from the date of the return of the documents to the applicant. If the Zoning Administrator determines the application is complete, the Zoning Administrator shall forward to the Planning Commission the application and the copies of the preliminary site plan, parallel plan, and supporting documents together with any comments.

6) The Planning Commission shall conduct its review and public hearing and take action in accordance with Article 24 herein. The Planning Commission may as part of its review require that the plan be submitted to the Mason County Health Department, Mason County Road

Commission, Mason County Drain Commission, Michigan Department of Natural Resources, Michigan Department of Environment, Great Lakes and Energy, Michigan Department of Public Health, and other appropriate state and county review and enforcement agencies or their successors, to the extent that any such agency has authority or other oversight over any aspect of the proposed open space development project.

7) After the Planning Commission has completed its review and recommendations, the applicant shall submit nine copies of a final site plan that complies with the requirements of this subsection, subsection (g) of this section, and Article 23. Such final site plan submitted by the applicant shall incorporate all of the recommendations, if any, made by the Planning Commission based on its prior review of the preliminary plan.

If any of the Planning Commission's recommendations are not incorporated in the final site plan, the applicant shall clearly specify in writing which recommendations have not been incorporated and the reasons why those recommendations have not been incorporated.

Except for changes made to the plan as necessary to incorporate the recommendations of the Planning Commission, the final site plan shall otherwise be identical to the preliminary site plan that was reviewed by the Planning Commission.

(8) The Planning Commission may require that a cash deposit, certified check, irrevocable bank letter of credit, or surety bond acceptable to the Commission covering the estimated cost of improvements associated with the project for which approval is sought be deposited with the Township as provided by the Zoning Act (MCL 125.3101 et seq.).

(e) Permitted uses and structures.

- 1) Single-family detached dwellings in the A-1 and A/R zoning districts.
- 2) Accessory structures for a single-family dwelling, including a garage and one storage building not to exceed 200 square feet.
- 3) Agricultural uses and structures incidental to agricultural uses.

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4) Private open space and recreational facilities for use by residents and property owners of the open space development project.

(f) Standards and requirements for review. An application and the plans submitted for conditional use approval of an open space development project shall be reviewed in accordance with the standards for site plan review under this ordinance and the following standards and requirements:

1) In reviewing the open space development project, the Planning Commission may consult with the Zoning Administrator, Township attorney, Township engineer, Township fire chief, Township planner, Township water and sewer department, or other appropriate persons regarding the adequacy of the proposed open space or common elements and maintenance provisions, use and occupancy restrictions, utility systems and streets, project layouts and design, or other aspects of the proposed project, and compliance of the proposed project with all requirements of all other applicable laws, ordinances or regulations.

2) The building site for each single-family dwelling unit shall comply with all applicable regulations of this ordinance, including, without limitation, minimum lot area, minimum lot width, required front, side, and rear yards, and maximum building height.

3) If an open space development project is proposed to have public streets, the streets shall be paved and developed to the minimum design, construction, inspection, approval, and maintenance requirements for platted public streets as required by the Mason County Road Commission and shall be appropriately dedicated to and accepted by the public. All private streets in an open space development project shall be developed to the minimum design, construction, inspection, approval, and maintenance requirements and any other applicable standards of this ordinance and other ordinances relating to private roads.

In addition to any such requirements, a private road in an open space development project shall meet the minimum standards, including width of road right-of-way, for local roads as established from time to time by the Mason County Road Commission. Approval of an open space development project containing private roads does not ensure that such roads will be acceptable for subsequent dedication to the public and acceptance by the Mason County Road Commission, whose rules and regulations shall govern.

4) Water and sewer systems.

i. An open space development project, proposed to be located in the Township areas north of the Pere Marquette River, shall be connected to the Township's public water system and public sanitary sewer system, if available. For purposes of this section, the Township's public water and/or public sanitary sewer system shall be deemed to be available if a water main or a sanitary sewer line to which connection can be made (in light of capacity, engineering, and other requirements) is located within 2,700 feet of the open space development project's nearest entrance.

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- ii. For an open space development project proposed to be located in an area of the Township south of the Pere Marquette River, the Township's public water and public sanitary sewer systems are not available. However, at such time as the Township's water system or sanitary sewer system may be extended by the Township to areas south of the Pere Marquette River, proposed projects shall comply with subsection (d)(4)i of this section.
- iii. In the event that the Township extends its water system and/or its sewer system so that it becomes available, as determined under subsection (d)(4)i of this section, to any existing open space development project, then such project shall be required to connect to such available system as is otherwise provided by applicable law, ordinance or regulation. However, no connection to the Township water system and/or sewer system is required so long as the private water and/or sewer system continues to receive approval permits from the Mason County Health Department and Michigan Department of Environment, Great Lakes and Energy.
- iv. If the Township's water system and/or the sanitary sewer system is not available to provide service to an open space development project, the project shall be served by privately owned water and septic/sewage systems (for individual lots or for a community system) that have received all necessary approvals and permits by the state, the Mason County Health Department and/or the Township in accordance with applicable standards and rules.

5) A minimum of 50 percent of the open space development project shall remain as open space to perpetually remain in an undeveloped natural state. The open space portion must remain perpetually in an undeveloped state by means of a recorded conservation easement, plat dedication, restrictive covenant, or other legal means that runs with the land, subject to the approval of the Township board. This open space may be used to preserve natural resources, natural features, or scenic or wooded conditions, agricultural use, or a similar use or condition. Land in an undeveloped state does not include a golf course but may include a recreational trail, picnic area, children's play area, greenway, or linear park. Land in an undeveloped state may be, but is not required to be, dedicated to the use of the public. Roads, easements for access and utility easements shall not be considered open space for the purpose of this ordinance.

6) A streetlight shall be installed at each intersection where the streets developed as part of an open space development project intersect with a previously established public road or private street.

7) An open space development project shall be designed to provide natural or landscaped screening, or a combination thereof, within the setback adjacent to any public road to provide a visual screening of the development from the public road(s). Such screening design shall be shown on the open space development project site plan.

- i. Natural screening may consist of one or more of: existing trees/forested areas, topography, or agricultural crop lands.

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ii. Landscaped screening may consist of one or more of: earthen berms, evergreen plantings, and other landscaped features designed for screening.

g) Contents of open space development project site plan. Any open space development project shall include all the information and documents required by this subsection. In addition, an open space development project plan shall include the following:

- 1) The use restrictions and maintenance provisions pertaining to the open space portion of the open space development project.
- 2) A storm drainage and storm water management plan, including all lines, swales, drains, basin, and other facilities and easements granted to the appropriate municipality for installation, repair, and maintenance of all drainage facilities.
- 3) A utility plan showing all water and sewer lines and easements granted to the appropriate municipality or public utility for installation, repair and maintenance of all utilities.
- 4) A narrative describing the overall objectives of the proposed open space development project.
- 5) A narrative describing the proposed method of providing potable water supply, waste disposal facilities, and public and private utilities.
- 6) A street construction, paving and maintenance plan for all public and private streets within the proposed open space development project.
- 7) A schedule for the dates of the completion of the construction and/or installation of utilities and streets.
- 8) Arrangement and area calculations for the open space, including a description of the character of the open space lands, such as upland, wetlands, floodplains, dunes, farmlands, woodlands, etc.
- 9) Developers planning an open space development project in more than one phase shall submit a site plan with respect to each proposed phase, which shall stand alone in meeting all Township requirements. Identification of the areas included in each phase, the density, lot area, setbacks of proposed single-family dwelling units within each phase and for the total open space development project shall be submitted. The applicant shall submit each phase of the open space development project for the review and approval by the Planning Commission and Township board.
- 10) Minimum lot size option: predicated on soil type(s). See section 109-254, Schedule of district regulations, subsection (b) Conditional uses, for the minimum lot area and yard requirements.

(h) Parallel plan required. The number of single-family detached dwelling units permitted shall be determined through preparation of a parallel plan.

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1) In addition to the documents required to be submitted in subsection (d) of this section, the applicant shall submit a parallel plan for the proposed open space development that is consistent with state, county and Township requirements and design criteria for a tentative preliminary plat, including, without limitation, the requirements of this ordinance and the Township subdivision ordinance. The parallel plan shall meet all standards for lot size, lot width and setbacks as required by the underlying zoning district, shall include public roadway improvements, and shall contain an area which conceptually would provide sufficient area for storm water detention. The parallel plan shall contain enough detail to permit the Commission to evaluate the buildable land and to determine the maximum base density of development. The Planning Commission may require additional detail or information as it may determine to be necessary to evaluate the feasibility of the parallel plan.

2) All lots shown on the parallel plan shall, for purposes of this section, detail a building area of sufficient size and shape to accommodate the proposed main building within the setback requirements and other regulations, septic or well systems (where no public sanitary sewer or water system is to be used), and required driveways, streets and/or other means of permitted access.

3) The Planning Commission shall review the parallel plan and determine the number of lots that could be feasibly developed following the parallel plan. This number, as determined by the Commission, shall be the base density, which shall be the maximum number of dwelling units allowable for the parcel to be developed unless the applicant qualifies for a density bonus.

i) Bonus density provisions. In order to preserve the maximum amount of open space, an open space development project may qualify for a density bonus, increasing the number of detached single-family homes above the base density established for the zoning district as established in the parallel plan.

1) Bonus allowances are cumulative, but in no case shall the density exceed 30 percent of the base density.

2) The application of the bonus density allowance may reduce the minimum lot area for base density lots in section 109-254(b), provided that in no event shall any lot be less than 12,000 square feet. The regulations for lot width, yard setbacks and maximum height shall not be affected by any bonus density allowance.

3) The open space development project may qualify for density bonus in accordance with the following table:

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Qualifying Factors	Density Bonus Percentage of Buildable Area
55—59 percent open space	10 percent
60—64 percent open space	20 percent
65 percent or greater open space	30 percent
Deeding of open space to homeowners' association when open space exceeds 50 percent	2 additional buildable sites

For example, if an open space development preserves 60 percent of the master parcel as open space which is deeded to a homeowners' association, then the development would have a bonus density equal to 20 percent of the base density and two additional buildings sites, such that if the base density was 100 sites, the development would be allowed a maximum of 122 building sites. If 65 percent of the master parcel is preserved as open space and the open space is deeded to the homeowners' association, the bonus density would be 30 percent with no additional building sites allowed for such deeding of open space due to the 30 percent maximum limit, such that a 100-unit base density would permit 130 units with the bonus density allowance.

j) Construction in compliance with approved final site plan. No excavation, construction, site improvements or other changes shall be made on the master parcel in connection with a proposed open space development project except in compliance with a final site plan. The Commission may require additional financial security, in the form as provided in subsection (d)(8)b of this section, as a condition to approving such request and may establish other reasonable conditions to such approval.

k) Commencement of construction and issuance of permits. No construction, grading, tree removal, soil stripping, or other site improvements or changes shall be commenced by any person, and no permits for such work shall be issued by the building inspector for an open space development project until:

- 1) A final open space development site plan has been approved by the Township board;
- 2) All conditions to commencement of construction imposed by the Township board have been met; and
- 3) All applicable approvals or permits from appropriate county and state review and enforcement agencies have been obtained for the project.

No building permit for any dwelling or other structures on building sites shall be issued until all site improvements, including without limitation, roads, utilities, drainage, and lighting are completed for the project, or for an approved phase of the project if the development is in phases.

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However, an applicant may request approval from the Township board for the issuance of building permits prior to the completion of the site improvements. Such request may be made as part of the application for conditional use approval or may be made subsequent to the approval.

l) Revisions of approved open space development projects. Any changes or deviation from an approved final site plan for an open space development project shall be submitted in writing to the Zoning Administrator. If the Zoning Administrator determines the change to be minor, the Zoning Administrator may approve the change in writing and shall place a copy of such approval together with the applicant's supporting documentation of the change or deviation in the file for the open space development project. Any proposed significant change to an approved final site plan shall be subject to the review and approval of the Planning Commission.

m) Ownership of open space. Ownership of the open space area within an open space development project may remain with the original owner of the parcel, may be dedicated to the public or may be granted to a homeowners' association comprised of the project's lot owners, or to any other individual or group. The Township shall not be responsible for maintaining the designated open space, unless such open space areas are dedicated to the public and accepted by the Township.

n) Approval effective for one year. The conditional use approval for an open space development project shall be effective for a period of one year from the date of approval by the Planning Commission. All necessary permits for the project must be obtained and substantial construction of the site improvements must be commenced within such one-year period or the conditional use approval shall automatically expire. The one-year period may be extended by the Planning Commission in its discretion for a period of time as determined by the Commission if the extension is applied for by the applicant within the one-year period. Where an open space development project is approved for construction in phases, the approval for each phase shall be subject to and limited by the provisions of this section for purposes of the duration of conditional use approval of each phase. In any event, the construction of an open space development project or of a phase of such project, as the case may be, shall be completed within two years from the date of the approval or the date of approval of any extension as provided in this section.

3.47 PROHIBITION OF RECREATIONAL MARIHUANA ESTABLISHMENTS.

a) Marihuana establishments, as authorized by and defined in the Michigan Regulation and Taxation of Marihuana Act (the “Act”), are prohibited in all zoning districts, and shall not be permitted as home occupations under Section 3.39.

b) No use that constitutes or purports to be a marihuana grower, marihuana safety compliance facility, marihuana processor, marihuana microbusiness, marihuana retailer, marihuana secure transporter or any other type of marihuana related business authorized by the Act, that was engaged in prior to the enactment of this Ordinance or prior to the addition of this Section to the Ordinance, shall be deemed to have been a legally established use under the provisions of this chapter; that use shall not be entitled to claim legal nonconforming status.

c) Violations of this section are subject to the violations and penalties pursuant to Section 33.06 and may be abated as nuisances.

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3.48 SHORT TERM RENTAL REQUIREMENTS

a) Definitions. For purposes of this Section 3.48 the following definitions shall apply:

Bedroom: A room intended for sleeping or placement of a bed, separated from other spaces in the dwelling or dwelling unit by one or more functional doors. Spaces or rooms that shall not be included as bedrooms for the purposes of determining occupancy are kitchens, dining areas, and gathering spaces such as family rooms, dens, recreation rooms, or living rooms.

Local agent: An individual designated to oversee the short-term rental of a dwelling unit in accordance with this article and to respond to calls from renters, concerned citizens, and Township officials. The local agent shall live or maintain a physical place of business within 45 miles of the dwelling unit used for short-term rentals. A property owner of the short-term rental dwelling unit who meets these criteria may be the local agent.

Occupant: An individual at least 24 months of age who is living in, sleeping in, or otherwise having possession of a space. An individual present in a dwelling unit during the term of a short-term rental shall be presumed to be an occupant unless circumstances clearly indicate that the individual is visiting between the hours of 8:00 a.m. and 11:00 p.m., and is not an overnight guest.

Short-term rental: The rental of a lawfully existing dwelling unit for compensation for a term of two nights to 29 nights. However, the rental of the following facilities shall not be considered short-term rentals:

- 1) Lawfully operating bed and breakfast establishments;
- 2) Lawfully operating hotels and motels;
- 3) Transitional housing operated by a charitable organization;
- 4) Group homes such as nursing homes, assisted living facilities, adult foster care homes, substance-abuse rehabilitation clinics, mental-health facilities, and other similar group home or health related facilities.

Short-term rental term: The duration of a rental contract, including any sublease, with a renter or group of renters. A rental term shall be deemed to end when a complete turnover in occupancy occurs in the dwelling or dwelling unit, or when the occupants of the short-term rental vacate the dwelling or dwelling unit as required by the short-term rental contract.

b) Permit Required

- 1) Prior to establishing a short-term rental operation, the property owner shall obtain a written short-term rental permit from the Township Zoning Administrator. In order to obtain the permit, the property owner shall submit the following information on an application provided by the Township. Conducting a short-term rental operation without this permit is prohibited.

2) Application Information

- i. Applicant contact information (property owner or local agent)

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- ii. Owner information if different from applicant
- iii. Address of dwelling unit
- iv. Number of dwelling units in structure
 - v. Number of bedrooms in each dwelling unit for which registration is being sought
- vi. Number of off-street parking spaces available for each short-term rental and a drawing of the property showing the location and dimensions of the parking area
- vii. Maximum number of occupants the applicant intends to occupy the short-term rental
- viii. Length of typical rental term
- ix. A written statement certifying that each bedroom has a working smoke alarm, working carbon monoxide meter on each floor, and that the owner or local agent will ensure that these devices are in proper working order every 90 days.
- x. A statement certifying that the applicant consents to inspections by Pere Marquette Charter Township or a designee of the Township upon request.
- xi. Additional information as may be required by the Zoning Administrator

3) Issuance of Permit

Upon the submission of a completed application and an inspection of the premises by the Zoning Administrator, the Zoning Administrator shall issue a short-term rental permit provided all applicable requirements of this Section have been met. The permit remains valid as long as the property owner complies with the requirements of this Section. A future property owner shall be required to obtain a new permit.

4) Short-term Rental Regulations

- i. *Local agent required.* Each dwelling unit registered as a short-term rental shall have a designated local agent.
- ii. *Contact information posted in window.* A notice shall be posted in a prominent first-floor window of any dwelling unit registered for short-term rental stating in at least 16-point font the name of the local agent; a 24-hour telephone number by which the agent may be reached; and the maximum occupancy of the dwelling unit as permitted by this ordinance.
- iii. *Street address posted within dwelling unit.* The street address of the property shall be posted in at least two prominent places within the dwelling unit in order to assist occupants in directing emergency service personnel in the event of an emergency. The address shall additionally be posted near any pool, hot tub, and spa available for use by occupants of the short-term rental.
- iv. *Code of Ordinances posted within dwelling unit.* The owner or local agent of each short term rental shall prominently display or otherwise make available a copy of applicable Pere Marquette Charter Township code of ordinance sections including, but not limited to, noise, trash, parking, fireworks, and controlled substances.
- v. *Maximum occupancy.* The number of total occupants in a dwelling unit registered as a short-term rental shall not exceed the lesser of:

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- a. 16 total occupants; or
 - b. 2 occupants per bedroom plus two additional occupants per finished story meeting the applicable egress requirements for occupancy in the Michigan Construction Code, the Michigan Residential Code, and all applicable State of Michigan and local fire codes.
 - c. An attic or basement shall not be included for the purposes of determining maximum occupancy for a short-term rental dwelling or dwelling unit, unless the owner or local agent provides written consent to Township officials to inspect the premises, in order to verify whether the attic or basement meets the applicable egress requirements for occupancy in the Michigan Construction Code, the Michigan Residential Code, and all applicable State of Michigan and local fire codes.
- vi. *Smoke detectors and carbon monoxide detectors required.* Each dwelling unit registered as a short-term rental shall have installed and shall maintain the following:
- a. Operational approved smoke detectors in each bedroom, which shall be tested a minimum of every 90 days to ensure proper function.
 - b. Operational approved carbon monoxide detectors meeting the requirements of MCL 125.1504 installed on each floor, which shall be tested a minimum of every 90 days to ensure proper function.
- vii. *Parking.* Off-street parking for each short-term rental shall be required as follows:
- a. Two spaces per each dwelling or dwelling unit which are approved for up to six occupants.
 - b. One additional space for every three occupants, or every fraction of three occupants, approved over six occupants per dwelling or dwelling unit.
 - c. Off-street parking for a short-term rental shall be provided as required by this Section, regardless if the existing off-street parking provided for the dwelling or dwelling unit is lawfully nonconforming.
 - d. Each short-term rental use shall have direct access to an adjacent public or private street.
- viii. *Signs.* Signs for Short-term rentals shall only be as permitted by the sign regulations adopted by Pere Marquette Charter Township for the zoning district in which the short-term rental is located.
- ix. *Fireworks.* Fireworks used on the premises of a registered short-term rental dwelling shall be subject to all State of Michigan and local regulations and restrictions.
- 5) Short-term Rental Uses Permitted in Certain Zoning Districts. Short-term rental uses are permitted in the following zoning districts:
- i. A/R, Agricultural Residential District
 - ii. Epworth Heights Resort Residential District

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ARTICLE 4

ZONING DISTRICTS AND MAP

4.01 ZONING DISTRICTS.

The following zoning districts are hereby established and the purpose and desired development of each district is stated along with the permitted uses in each district. In addition, certain overlay zones have been established to address specific land use concerns. The general provisions established for this ordinance apply to all land in the Township.

- A-1 - Agricultural District
- A/R - Agricultural Residential District
- R-1- Low Density Residential District
- R-2 - Medium Density Residential District
- Epworth Heights Resort Residential District
- PS - Professional Services District
- C-1- Neighborhood Commercial District
- C-2 - Community Commercial District
- I - General Industrial District
- HAR - Harbor District
- AP - Airport District
- Pumped Storage District
- MHP- Mobile Home Park District
- CON - Conservation Flood Plain District
- National Scenic River Overlay District
- High Risk Erosion Overlay District
- Critical Dune Overlay District
- PUD Planned Unit Development District

4.02 ZONING MAPS.

The location and boundaries of the zoning districts named and listed in Article 4 of this Ordinance are hereby established as shown on a map entitled "Zoning Map of Pere Marquette Charter Township,

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as amended from time to time. The map and all amendments thereto are made a part of this Ordinance.

4.03 ZONING MAP INTERPRETATION

When uncertainty exists as to the boundaries of zoning districts as shown on the zoning map the following rules of construction and interpretation shall apply:

- a) Boundaries indicated as approximately following the centerlines of streets, highways, or alleys shall be construed to follow such centerlines.
- b) Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines.
- c) Boundaries indicated as approximately following township limits shall be construed as following township limits.
- d) Boundaries indicated as following railroad lines shall be construed to be midway between the right-of-way lines.
- e) Boundaries indicated as following shorelines shall be construed to follow such shorelines, and, in the event of change in the shoreline, shall be construed as moving with the actual shoreline; boundaries indicated as approximately following the centerline of streams, rivers, canals, lakes, or other bodies of water shall be construed to follow such centerlines.
- f) Boundaries indicated as parallel to or extensions of features indicated in subsections (a) through (e) of this section shall be so construed. Distances not specifically indicated on the official zoning map shall be determined by the scale of the map.
- g) Where physical or natural features existing on the ground are at variance with those shown on the official zoning maps, or in other circumstances not covered by subsections (a) through (f) of this section, the Zoning Board of Appeals shall interpret the district boundaries.
- h) In any case where boundary lines cannot be determined by application of these rules, such boundaries shall be determined by the Zoning Board of Appeals whose decision shall be final except that such decision may be appealed to the Circuit Court.

4.04 LANDS NOT INCLUDED WITHIN A ZONING DISTRICT

- a) If, by error, omission, annexation or other reason, any land that has not been specifically included within a zoning district, such land shall be included in the R-1, Low Density Residential Zoning District.
- b) All land, property or territory hereafter to be annexed to Pere Marquette Charter Township shall be considered to be in an R-1 district until otherwise classified.

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ARTICLE 5

AGRICULTURAL DISTRICT

5.01 PURPOSE.

The A-1 district is established in recognition of the areas in the township which are used primarily for agricultural activity. By nature, these areas require large tracts of lands and because of the types of crops, are located in close proximity to Lake Michigan. It is the general purpose of this district to preserve this type of land area and to attempt to decrease encroachment by uses which are not agriculturally oriented.

5.02 DISTRICT REGULATIONS.

- a) All principal, accessory and conditional uses and structures in the A-1 district shall be subject to the area, location and height restrictions as specified in the Article 35, Schedule of Zoning District Regulations.
- b) The minimum distance between dwellings shall be 660 feet (as measured by adjacent road frontage) however, this requirement is not applicable to dwellings that are constructed in conjunction with a farm operation having contiguous area of ten acres or more and to be located upon the same premises or dwellings constructed as an open space preservation project permitted by Section 5.03.

5.03 PERMITTED USES AND STRUCTURES.

Land and buildings in this district may be used for the following uses only:

- a) Single family detached dwellings.
- b) Farms, farm operations and farm buildings as defined herein.
- c) Livestock production facilities and off-site manure storage facilities as defined by the Michigan Department of Agriculture Generally Accepted Agricultural Management Practices. (GAAMP's) prepared under the authority of the Michigan Right to Farm Act, PA 93 of 1981 as amended.
- d) Open space preservation projects per Section 3.46 herein.
- e) Cemeteries.
- f) Public and private conservation areas for the preservation of water, soil, open space, forest or wildlife resources.
- g) Public or private riding, boarding and training stables, provided all exercise areas, grazing areas and similar areas for the corralling of the horses shall be surrounded by a fence or wall adequate to contain the animals.
- h) Towers and antennas which do not exceed a height of 35 feet per Section 3.28 herein.

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- i) Adult Foster Care Family Home (1-6 adults).
- j) Family Child Care Home (1-6 minor children).
- k) Commercial storage of recreational vehicles, boats, and equipment within a building which existed as of the adoption date of this Ordinance.
- l) A biofuel production facility accessory to and conducted in conjunction with an active farm operation provided the following requirements are met:
 - 1) The facility produces not more than 100,000 gallons annually;
 - 2) The facility is located a minimum of 100 feet from the lot line of any contiguous property under different ownership than the property on which the facility is located and meets all other applicable setback requirements;
 - 3) On an annual basis, not less than 75% of the feedstock for the biofuel production facility is produced on the farm property where the biofuel production facility is located or on property which is under control of the person conducting the farm operation, and not less than 75% of the biofuel or another product or by-product produced by the biofuel production facility is used on that farm or on property which is under control of the person conducting the farm operation.
- m) Farm Markets/Roadside Stands as regulated by Section 5.05 herein.
- n) Community Supported Agriculture (CSA) where a farm operation produces farm products for a group of farm members or subscribers who pay in advance for their share of the harvest and receive their share either by coming to the farm to pick up their harvest, or by delivery of the harvest to a designated place. A CSA use shall not require site plan approval according to the requirements of Article 23 of this Ordinance but shall require approval by the Zoning Administrator according to the requirements of Section 5.06(b) and (c) herein.
- o) U-Pick operation where a farm operation provides the opportunity for customers to harvest their own farm products directly from the plant at the farm operation. A U-Pick operation shall not require site plan approval according to the requirements of Chapter 23 of this Ordinance but shall require approval by the Zoning Administrator according to the requirements of Section 5.06 (a) and (b).
- p) Rural Recreation/Amusement Enterprises which utilize farmland or farm equipment for uses which take place substantially outdoors, in conjunction with an active farm operation. Such uses include crop mazes, hay rides, horse rides, petting farms, bicycle and foot trails, pumpkin/gourd picking, haunted trails and barns, play-scapes, fishing, bonfires, and cider mills (non-alcoholic) for on-site sales and consumption only. A farm market may be operated in conjunction with such uses.

Such uses are subject to the requirements of Section 5.06, except that review and approval shall be by the Zoning Administrator. As an accessory to rural recreation/amusement enterprises, the limited sale of pre-packaged snack foods, non-alcoholic beverages, and baked goods not produced on the premises but for consumption on the premises shall be allowed.

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- q) Essential public services equipment per Section 3.19 herein.
- r) Ponds, when clearly accessory to the agricultural activities maintained on the premises or preservation of water, soil, or wildlife resources.
- s) Home occupations per Section 3.39.
- t) Collocated antenna, subject to the provisions of Section 3.29(d) herein.
- u) Structure-mounted wind energy turbines (SMWET) and small wind energy turbines (SWET) in accordance with Article 29.
- v) Outside storage of property owner or tenant owned recreational equipment as defined herein on a parcel containing an occupied dwelling unit or a principal use. The equipment shall not be occupied for living purposes and shall not be located in a required front yard.
- w) Accessory uses and structures which are customarily incidental to any of the permitted principal uses and structures.

5.04 CONDITIONAL USES AND STRUCTURES.

The following uses may be permitted in the A-1, Agricultural District upon authorization as a Conditional Use by the Planning Commission in accordance with the requirements of Article 24 herein.

- a) Processing and packaging facilities, fruit and vegetable.
- b) Agricultural service establishments which engage in performing agricultural, animal husbandry, or horticultural services on a fee or contractual basis, including but not limited to the following:
 - 1) Centralized bulk collection, refinement, storage and distribution of farm product to wholesale and retail markets (such as grain cleaning and shelling; sorting, grading, and packing of fruits and vegetables for the grower and agricultural produce milling and processing);
 - 2) The storage and retail sale of seed, feed, fertilizer, and other products essential to agricultural production;
 - 3) Crop dusting facilities;
 - 4) Fruit packing;
 - 5) Farm equipment sales, service, and repair;
 - 6) General repair and welding of farm implements and farm machinery.
- c) Veterinary clinics per 24.22 herein.
- d) Commercial kennels per Section 24.14 herein.
- e) Churches, synagogues, temples, and similar places of religious worship.
- f) Group child care homes per Section 24.21 herein. (7-12 minor children)

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- g) Private schools not under the jurisdiction of the Michigan Superintendent of Public Instruction.
- h) Mineral extraction and processing of on-site minerals per Section 24.32 herein.
- i) Rooming houses per Section 24.18 herein.
- j) Wireless communications towers over 35 feet in height per Section 3.29 herein.
- k) Medium wind energy turbine(s) (MWET) and large wind energy turbine(s) (LWET) in accordance with Article 29.
- l) Facilities used in the research and testing of farm products and techniques.
- m) Private landing fields.
- n) Hunting preserves.
- o) Rural Recreation/Special Events which utilize farmland or farm equipment for commercial uses which take place substantially outdoors, in conjunction with an active farm operation and in accordance with Section 24.28 herein. Such uses include indoor and outdoor weddings, wedding receptions, company picnics, graduation parties, reunions, and similar gatherings as may be specifically approved by the Planning Commission but not including musical concerts.
- p) Wineries, breweries and distilleries on the same premises as an active farm, which involve the sale of wine, hard cider, or other alcoholic beverages which are primarily produced on the site from farm products grown on the premises or on land under the control of the person selling or producing such products, subject to any applicable Federal or State of Michigan law per the requirements of Section 5.07 herein.
- q) Bakeries, cooking demonstrations, food service, and on-site food consumption when incidental to and on the same premises as an active farm operation and subject to all State of Michigan and Mason County Health Department regulations.
- r) Processing and bottling of dairy products on the same premises as an active farm, produced from farm animals which reside on the premises or on land under the control of the person selling or producing such products; and processing of meats, fruits, and vegetables on the same premises as an active farm, from products which are produced on the site from farm products grown on the premises or on land under the control of the person selling or producing such products, subject to any applicable Federal or State of Michigan law.
- s) Biofuel production facility accessory to and conducted in conjunction with an active farm operation which produces not more than 100,000 gallons annually and which complies with Sections 5.03 (l) (1) and (2) but which does not comply with Section 5.03 (l)(3) herein. Such facility shall also comply with the requirements of Section 24.29 herein.
- t) A biofuel production facility accessory to and conducted in conjunction with an active farm operation which produces more than 100,000 gallons but less than 500,000 gallons annually as regulated by Section 24.29 herein.
- u) Essential public services structures and buildings per Section 3.20 herein.

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v) Home Based Business per Section 24.30 herein.

5.05 REGULATIONS FOR FARM MARKETS

Farm markets as defined herein may be conducted as a principal use or on a parcel containing a principal use in accordance with the following requirements:

- a) In addition to the following regulations a farm market is subject to the Generally Accepted Agricultural and Management Practices (GAAMPs) for Farm Markets as adopted by the Michigan Department of Agriculture.
- b) Temporary farm markets. For farm markets which operate during the growing and harvesting season only and which utilize stands, tables, shelves, canopies, tents, wagons, vehicles or similar display stands and items which are portable and used for the display and sale of farm products the following regulations shall apply:
 - 1) Such items shall not be located within the road right of way.
 - 2) Such farm markets shall provide off street parking which does not require the vehicle to back into the abutting public road to exit the site.
- c) Farm Markets in a building. The following regulations shall apply only to farm markets which operate within a building either on a temporary or permanent basis.
 - 1) If a farm market is to be housed in a physical structure such as a building or structure as defined and regulated by the Michigan Building Code as amended, then the structure must comply with the requirements of the Michigan Building Code.
 - 2) Prior to establishing a farm market in a building or structure, the operator or land owner shall obtain a written permit from the Township Zoning Administrator.
 - 3) In order to obtain this permit the operator or land owner shall submit an accurate drawing illustrating the location of the lot lines, building location and setbacks, parking area, access drives and other relevant features of the site to the Zoning Administrator who shall review the drawing to ensure that the project is designed:
 - i. To be compatible with adjacent land uses; to provide safe and efficient vehicle traffic flow and safety for pedestrians;
 - ii. To provide adequate utilities, storm water management provisions and public services and;
 - iii. To ensure the orderly development of land uses in accordance with the intent and purposes of this Ordinance.

The Zoning Administrator is authorized to require those measures as are necessary and practical to ensure that the farm market use is designed to meet the above standards.

- 4) As part of the submittal requirements the applicant shall also provide the following
 - i. Information on the type of farm and non-farm products to be sold.

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- ii. A floor plan of the building showing the area to be devoted to the sale of the farm and non-farm products in order to verify compliance with the definition of farm market or: As an alternative to the floor area requirement, the applicant may provide information on the gross dollar sales of farm products in order to verify compliance with the definition of farm market.
- 5) The farm market building or buildings shall comply with the setback requirements for principal buildings in the zoning district in which the farm market is located.
- 6) Such farm markets shall provide safe, adequate and convenient off-street parking which does not require the vehicle to back into the abutting public road to exit the site. Such spaces need not be paved.
- 7) Approval by the Mason County Health Department may be required.
- d) Sale of Non-Farm Products. Farm markets may sell the following non-farm products: landscaping and gardening items including but not limited to plant containers, seeds, bulbs, fertilizer, pest control items, bags of mulch and soils, gardening decorations and tools, and other similar gardening accessory items, and the sale of pre-packaged snack foods, nonalcoholic beverages, and baked goods not produced on the premises, provided that the sale of all non-farm product items is clearly accessory to the principal farm market use and that the area devoted to the sale of all non-farm products does not occupy more than 20% of the total square footage used to display all the products offered for retail sale on the property.
- The Zoning Administrator may allow other non-farm products to be sold provided they are similar to those items listed above.
- e) Sale of Farm Products Not Produced by the Affiliated Farm. Farm products, as defined in this Ordinance, which are not produced on and by the affiliated farm, may also be sold provided such products do not occupy more than 50% of the total square footage devoted to retail sales on the property.
- f) The combination of non-farm products and farm products not produced on and by the affiliated farm which are sold at a farm market shall not in any case exceed 50% of the total square footage devoted to retail sales on the property.
- g) Outdoor display. The display of non-farm products shall be setback a minimum of 40 feet from the front lot line and a minimum of 20 feet from a side lot line.

5.06 RURAL RECREATION/AMUSEMENT ENTERPRISES

Rural recreation/amusement enterprises allowed according to Section 5.03 (p) shall be subject to the following applicable requirements.

- a) Sufficient off-street parking shall be provided to avoid the necessity of parking on adjacent streets. Such spaces need not be paved but shall be located so vehicles do not need to back into the public road.
- b) Such uses shall not be subject to the site plan review requirements of Article 23 of this Ordinance. However, the applicant shall submit an accurate drawing illustrating the location of

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the parking area, access drives, the location and layout of the proposed activity, and any other information as may be requested by the Zoning Administrator.

c) The Zoning Administrator may consult with public safety officials and the Township Building Official as necessary before approval of the proposed activity.

e) Signs shall be allowed as regulated by Article 28.

5.07 REGULATIONS FOR WINERIES, BREWERIES, AND DISTILLERIES.

a) Farm markets are permitted in conjunction with such uses.

b) Alcoholic beverages produced on site may be sold by bottle, can or other legal container and may be sold or served by the glass as allowed by 5.07(c) below.

c) The sale and sampling of alcoholic beverages produced on site by the glass is only allowed in a tasting room in accordance with the requirements of the State of Michigan Liquor Control Commission. Limited food items such as cheeses, pretzels, crackers, fruit and similar finger foods may be served in the tasting room.

d) Tours of the facility shall be permitted.

e) The building containing the equipment used to produce the alcoholic beverage and other buildings open to the public shall be setback a minimum of 100 feet from any lot line that abuts a parcel zoned residential or a parcel containing a residential use. Other set back requirements shall be as set forth for the applicable principal and accessory uses in the A-1 Zone.

f) Any buildings on site which are open to the public shall be subject to the requirements of the Township Building Code in order to ensure the safety of the public.

g) All parking shall be on site. One parking space for every 300 square feet of useable floor area open to the public shall be provided. The required parking areas need not be paved. A minimum of three off street parking spaces shall be provided.

h) Such uses shall be subject to the site plan review submittal requirements of Chapter 22 of this Ordinance

i) The applicant shall also provide evidence of compliance with all State of Michigan and Mason County Health Department requirements to the Township before the use is open to the public.

5.08 FLOOR AREA REQUIREMENTS

All dwelling units constructed after the date of adoption of this amendment shall contain the following minimum amount of floor area.

One story: 900 sq. ft. on the ground floor

Two story: 800 sq. ft. on the ground floor

Split or bi-level: 800 sq. ft. above grade

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5.09 ADDITIONAL REQUIREMENTS

a) General Requirements

- 1) Keeping of Animals. Section 3.26.
- 2) Accessory Buildings. Section 3.12.
- 3) Private Roads. Section 3.45.
- 4) Landscaping for Non-Residential Uses. Article 26.
- 5) Parking of Recreational Vehicles. Section 3.25.
- 6) Signs. Article 28.
- 7) Off-Street Parking. Article 27.
- 8) Sidewalks. Article 30.

b) Development Procedures

- 1) Site Plan Review. Article 23.
- 2) Conditional Land Uses. Article 24.
- 3) Site Condominiums. Article 25.

c) Appeals and Administration

- 1) Non-Conforming Lot and Uses. Article 31.
- 2) Zoning Board of Appeals. Article 32.

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ARTICLE 6

A/R

AGRICULTURAL / RESIDENTIAL DISTRICT

6.01 PURPOSE

The provisions of this section apply to the A/R district. The A/R district is established to provide areas of both residential and general agricultural development. This area is intended to regulate the development of nonfarm use within primarily open land farm areas. It is the purpose of the regulations to promote the maintenance of farm areas while at the same time to permit a residential environment of a compatible low-density ratio.

6.02 DISTRICT REGULATIONS.

All principal, accessory and conditional uses and structures in the A/R district shall be subject to the area, location and height restrictions as specified in the Article 35, Schedule of Zoning District Regulations.

6.03 PERMITTED USES AND STRUCTURES.

Land and buildings in this district may be used for the following uses only:

- a) Permitted uses and structures as allowed in Section 5.03, A-1 Agricultural District.
- b) Governmental buildings are allowed only on parcels larger than one-half acre in size subject to site plan approval by the Planning Commission per Section 23 herein.
- c) Public parks, playgrounds, indoor and outdoor recreational uses and historical sites are allowed only on parcels larger than one-half acre subject to site plan approval by the Planning Commission per the Section 23 herein.
- d) Short term rental operations per Section 3.48 herein.

6.04 CONDITIONAL USES AND STRUCTURES

The following uses may be permitted in the A/R, Agricultural/ Residential District upon authorization as a Conditional Use by the Planning Commission in accordance with the requirements of Chapter 23 herein.

- a) Veterinary clinics per Section 24.22 herein.
- b) Commercial kennels per Section 24.14 herein.
- c) Churches, synagogues, temples, and similar places of religious worship.
- d) Group child care home (7-12 minor children) per Section 24.21.
- e) Private schools not under the jurisdiction of the Michigan Superintendent of Public Instruction.
- f) Mineral extraction and processing of on-site minerals per Section 24.32 herein.

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- g) Rooming houses per Section 24.18 herein.
- h) Wireless communications towers over 35 feet in height per Section 3.29 herein.
- i) Medium wind energy turbine(s) (MWET) and large wind energy turbine(s) (LWET) in accordance with Article 29.
- j) Facilities used in the research and testing of farm products and techniques.
- k) Private landing fields.
- l) Ponds when not accessory to agricultural activities maintained on the premises.
- m) Convenience stores per Section 24.12 herein.
- n) Clubs and lodges per Section 24.11 herein.
- o) Golf courses and country clubs. Dining and restaurant facilities, retail sales of golf equipment, driving ranges and similar related accessory uses may be allowed if specifically approved by the Planning Commission.
- p) Outdoor commercial recreation establishments such as miniature golf, go cart tracks, golf driving ranges, batting cages, athletic fields, and ball courts.
- q) Bed and Breakfast establishments per Section 24.31 herein.
- r) Rural Recreation/Special Events which utilize farmland or farm equipment for commercial uses which take place substantially outdoors, in conjunction with an active farm operation and in accordance with Section 24.28 herein. Such uses include indoor and outdoor weddings, wedding receptions, company picnics, graduation parties, reunions, and similar gatherings as may be specifically approved by the Planning Commission but not including musical concerts.
- s) Wineries, breweries and distilleries on the same premises as an active farm, which involve the sale of wine, hard cider, or other alcoholic beverages which are primarily produced on the site from farm products grown on the premises or on land under the control of the person selling or producing such products, subject to any applicable Federal or State of Michigan law per the requirements of Section 5.07 herein,
- t) Bakeries, cooking demonstrations, food service, and on-site food consumption when incidental to and on the same premises as an active farm operation and subject to all State of Michigan and Mason County Health Department regulations.
- u) Processing and bottling of dairy products on the same premises as an active farm, produced from farm animals which reside on the premises or on land under the control of the person selling or producing such products; and processing of meats, fruits, and vegetables on the same premises as an active farm, from products which are produced on the site from farm products grown on the premises or on land under the control of the person selling or producing such products, subject to any applicable Federal or State of Michigan law.
- v) Biofuel production facility accessory to and conducted in conjunction with an active farm operation which produces not more than 100,000 gallons annually and which complies with Sections 5.03 (l) (1) and (2) but which does not comply with Section 5.03 (l)(3) herein.

Purpose, Scope & Validity	Definitions	General Provisions	Zoning Districts	Off Street Parking
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Such facility shall also comply with the requirements of Section 24.29 herein.

w) A biofuel production facility accessory to and conducted in conjunction with an active farm operation which produces more than 100,000 gallons but less than 500,000 gallons annually as regulated by Section 24.30 herein.

x) Essential public services structures and buildings per Section 3.20 herein.

y) Home Based Business per Section 24.30 herein.

6.05 FLOOR AREA REQUIREMENTS

All dwelling units constructed after the date of adoption of this amendment shall contain the following minimum amount of floor area.

One story: 900 sq. ft. on the ground floor

Two story: 800 sq. ft. on the ground floor

Split or bi-level: 800 sq. ft. above grade

6.06 ADDITIONAL REQUIREMENTS

a) General Requirements

- 1) Keeping of Animals. Section 3.26.
- 2) Accessory Buildings. Section 3.12.
- 3) Private Roads. Section 3.45.
- 4) Landscaping for Non-Residential Uses. Article 26.
- 5) Parking of Recreational Vehicles. Section 3.25.
- 6) Signs. Article 28.
- 7) Off-Street Parking. Article 27.
- 8) Sidewalks. Article 30.

b) Development Procedures

- 1) Site Plan Review. Article 23.
- 2) Conditional Land Uses. Article 24.
- 3) Site Condominiums. Article 25.

c) Appeals and Administration

- 1) Non-Conforming Lot and Uses. Article 31.
- 2) Zoning Board of Appeals. Article 32.

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ARTICLE 7

R-1

LOW DENSITY RESIDENTIAL DISTRICT

7.01 PURPOSE.

The provisions of this section apply to the R-1 district. The R-1, Low Density Residential District is established to provide areas for single-family residential development and to limit and prohibit business, commercial or industrial use of land in the said district, except special land uses which are determined to be appropriate for neighborhood and residential services, and which do not adversely affect the character of the district.

It is further the purpose of the R-1 district to minimize and discourage traffic other than that necessary to service residences, and to limit the need for public services to those required in orderly residential areas. District regulations have been designed to accommodate several levels of developmental density based on the availability of utilities and environmental character of the area.

7.02 DISTRICT REGULATIONS.

All principal, accessory, and conditional uses and structures in the R-1 district shall be subject to the area, location and height restrictions as specified in Article 35, Schedule of Zoning District Regulations.

7.03 PERMITTED USES AND STRUCTURES.

Land and buildings in this district may be used for the following uses only:

- a) Single-family detached dwellings.
- b) Public parks and playgrounds subject to site plan approval by the Planning Commission.
- c) Adult Foster Care Family Home (1-6 adults).
- d) Family Child Care Home (1-6 minor children).
- e) Adult Day Care Home (1-6 adults).
- f) Essential public service equipment per Section per Section 3.19 herein.
- g) Home occupations per Section 3.39 herein.
- h) Collocated antenna subject to the provisions of Section 3.29(d) herein.
- i) Structure-mounted wind energy turbines (SMWET) and small wind energy turbines (SWET) in accordance with Article 29.
- j) Towers and antennas which do not exceed a height of 35 feet per Section 3.28 herein.
- k) Accessory uses and structures which are customarily incidental to any of the permitted principal uses and structures.

Purpose, Scope & Validity	Definitions	General Provisions	Zoning Districts	Off Street Parking
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7.04 CONDITIONAL USES AND STRUCTURES

The following uses may be permitted in the R-1, Low Density Residential District upon authorization as a Conditional Use by the Planning Commission in accordance with the requirements of Article 24 herein.

- a) Group child care home (7-12 minor children) per 24.21 herein.
- b) Adult foster care facilities, homes for the aged and nursing homes provided they are served by public water and sanitary sewer.
- c) Bed and Breakfast per Section 24.31 herein.
- d) Governmental buildings and uses limited to fire protection services (i.e., fire department stations) and emergency medical treatment services (i.e., ambulance stations) only.
- e) Private schools not under the jurisdiction of the Michigan Superintendent of Public Instruction.
- f) Churches, synagogues, temples, and other similar facilities to be used for public worship.
- g) Ponds per Section 24.15 herein
- h) Essential public service structures and buildings per Section 3.20 herein.

7.05 MINIMUM FLOOR AREA

One story: 900 sq. ft. on the ground floor

Two story: 800 sq. ft. on the ground floor

Split or bi-level: 800 sq. ft. above grade

7.06 ADDITIONAL REQUIREMENTS

General Requirements

- 1) Keeping of Animals. Section 3.26.
- 2) Accessory Buildings. Section 3.12.
- 3) Private Roads. Section 3.45.
- 4) Landscaping for Non-Residential Uses. Article 25.
- 5) Parking of Recreational Vehicles. Section 3.25.
- 6) Signs. Article 28.
- 7) Off-Street Parking. Article 27.
- 8) Sidewalks. Article 30.

Development Procedures

- 1) Site Plan Review. Article 23.
- 2) Conditional Land Uses. Article 24.

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3) Site Condominiums. Article 25.

Appeals and Administration

- 1) Non-Conforming Lot and Uses. Article 31.
- 2) Zoning Board of Appeals. Article 32.

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ARTICLE 8

R-2

MEDIUM DENSITY RESIDENTIAL DISTRICT

8.01 PURPOSE.

The R-2 Medium Density Residential District is established to provide areas of higher density residential development. Desired uses in this district include single-family, two-family and multiple-family dwellings. Services, facilities and uses incidental or accessory to general residential development are included. This area is also intended to serve as a transitional zone between single-family and commercial development.

8.02 DISTRICT REGULATIONS.

All principal, accessory, and conditional uses and structures in the R-1 district shall be subject to the area, location and height restrictions as specified in Article 35, Schedule of Zoning District Regulations.

8.03 PERMITTED USES AND STRUCTURES.

Land and buildings in this district may be used for the following uses only:

- a) Permitted uses and structures as permitted in Section 7.03, R-1 Zoning District.
- b) Two family dwellings.

8.04 CONDITIONAL USES AND STRUCTURES

The following uses may be permitted in the R-2, Medium Density Residential District upon authorization as a Conditional Use by the Planning Commission in accordance with the requirements of Chapter 23 herein.

- a) Conditional uses and structures as permitted in Section 7.04, R-1 Zoning District.
- b) Multiple family dwellings and townhouses subject to the provisions of Section 24.23.
- c) Professional services facilities.

8.05 MINIMUM FLOOR AREA

Single family detached:

One story: 900 sq. ft. on the ground floor

Two story: 800 sq. ft. on the ground floor

Split or bi-level: 800 sq. ft. above grade

Two family: 900 sq. ft. per dwelling unit.

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Multi-family:

Efficiency: 400 square feet

One bedroom: 600 square feet

Two bedrooms: 800 square feet

Three or more bedrooms: 100 additional sq. ft. for each bedroom over two.

8.06 ADDITIONAL REQUIREMENTS

a) General Requirements

- 1) Keeping of Animals. Section 3.26.
- 2) Accessory Buildings. Section 3.12.
- 3) Private Roads. Section 3.45.
- 4) Landscaping for Non-Residential Uses. Article 26.
- 5) Parking of Recreational Vehicles. Section 3.25.
- 6) Signs. Article 28.
- 7) Off-Street Parking. Article 27.
- 8) Sidewalks. Article 30.

b) Development Procedures

- 1) Site Plan Review. Article 23.
- 2) Conditional Land Uses. Article 24.
- 3) Site Condominiums. Article 25.

c) Appeals and Administration

- 1) Non-Conforming Lot and Uses. Article 31.
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ARTICLE 9

EPWORTH HEIGHTS RESORT RESIDENTIAL DISTRICT

9.01 PURPOSE.

The purpose of this Article is to create the Epworth Heights Resort Residential Zoning District in accordance with the following statement from the 2016 Pere Marquette Charter Township Comprehensive Plan: “The purpose of the Epworth Heights Residential designation is to provide for the continuation of the existing resort residential uses within the Epworth Heights area.”

The regulations of this Article recognize that the historical property ownership arrangements under which this land use was established make it difficult to apply typical bulk and land use requirements of contemporary zoning laws. The requirements of this district are intended to make the uses conforming, ensure proper separation between buildings for fire safety and allow for adequate ventilation and light for residents as well as safe vehicle and pedestrian safety and ensure proper oversight of State of Michigan requirements for building in High Risk Erosion Areas and Critical Dune Areas as designated by the Michigan Department of Environment, Great Lakes and Energy.

9.02 DISTRICT REGULATIONS.

- a) All new principal and accessory buildings and additions to principal and accessory buildings shall be setback a minimum of 50 feet from the property lines of any adjoining zoning district.
- b) The parking requirements for all uses are exempt from the requirements of Article 27 except that all parking areas shall provide for adequate drainage subject to approval of the Township Zoning Administrator.
- c) All uses shall comply with the applicable Federal and State of Michigan requirements.

9.03 PERMITTED USES AND STRUCTURES.

- a) Single-family detached dwellings.
- b) Private parks and playgrounds.
- c) Churches, synagogues, temples, and other similar facilities to be used for public worship.
- d) Community buildings with dining facilities for residents.
- e) Golf course.
- f) Indoor and outdoor recreation activities as defined herein.
- g) Guard house.
- h) Adult Foster Care Family Home (1-6 adults).
- i) Family Child Care Home (1-6 minor children).

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- j) Essential public service equipment per Section per Section 3.19 herein.
- k) Home occupations per Section 3.39 herein.
- l) Collocated antenna subject to the provisions of Section 3.29(d) herein.
- m) Structure-mounted wind energy turbines (SMWET) and small wind energy turbines (SWET) in accordance with Article 29.
- n) Towers and antennas which do not exceed a height of 35 feet per Section 3.28 herein.
- o) Short term rental operations per Section 3.48 herein.
- o) Accessory uses and structures which are customarily incidental to any of the principal uses and structures.

9.04 ADDITIONAL REQUIREMENTS

a) General Requirements

- 1) Keeping of Animals. Section 3.26.
- 2) Accessory Buildings. Section 3.12.
- 3) Private Roads. Section 3.45.
- 4) Landscaping for Non-Residential Uses. Article 26.
- 5) Parking of Recreational Vehicles. Section 3.25.
- 6) Signs. Article 28.
- 7) Off-Street Parking. Article 27.
- 8) Sidewalks. Article 30.

b) Development Procedures

- 1) Site Plan Review. Article 23.
- 2) Conditional Land Uses. Article 24.
- 3) Site Condominiums. Article 25.

c) Appeals and Administration

- 1) Non-Conforming Lot and Uses. Article 31.
- 2) Zoning Board of Appeals. Article 32.

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ARTICLE 10

**P-S
PROFESSIONAL SERVICES DISTRICT**

10.01 PURPOSE.

The Professional Services District is established to recognize and provide areas for professional offices and personal service businesses which serve the neighborhoods in which they are located and have buildings and landscaping which are harmonious and compatible with their surroundings.

10.02 DISTRICT REGULATIONS.

All principal, accessory, and conditional uses and structures in the P-S district shall be subject to the area, location and height restrictions as specified in Article 35, Schedule of Zoning District Regulations.

10.03 PERMITTED USES AND STRUCTURES.

Land and buildings in this district may be used for the following uses only:

- a) Professional offices for doctors, lawyers, architects, dentists, accountants, engineers, planners, insurance, financial consulting, general consulting, and other similar general businesses not engaged in retail sales.
- b) Banks, credit unions, mortgage firms and other types of financial businesses, including those with drive-through facilities.
- c) Medical and dental clinics.
- d) Personal service establishments which perform services on the premises including but not limited to barber/beauty shops, nail salons, tattoo parlors, physical therapy, and chiropractors,
- e) Offices and showrooms for home and office decorators which do not involve retail sales.
- f) Health and fitness establishments.
- g) Adult foster care facilities, homes for the aged and nursing homes provided they are served by public water and sanitary sewer.
- h) Child care center.
- i) Governmental buildings.
- j) Veterinary clinics per Section 24.22 herein.
- k) Collocated antenna subject to the provisions of Section 3.29(d) herein.

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- l) Structure-mounted wind energy turbines (SMWET) and small wind energy turbines (SWET) in accordance with Article 29.
- m) Towers and antennas which do not exceed a height of 35 feet per Section 3.28 herein.
- n) Accessory uses and structures which are customarily incidental to any of the permitted principal uses and structures.

10.04 SPECIFIC REGULATIONS

- a) *Dumpsters* - All dumpsters and trash containers shall be located behind the front line of the main building and shall be screened from view by landscaping, fencing or placement of the building in accordance with Section 26.08 herein.
- b) *Structure Facade* - At least 50 percent of that portion of a building, be it a front, side, or rear, which faces a public street shall be finished with face brick, wood, vinyl, glass, tinted and/or textured masonry block, fluted cement block, cement board, natural or cast stone, architectural pre-cast panel's or stucco-like material or a combination of these materials. In recognition of developing technologies in building materials, the Planning Commission may agree to approve other materials provided that they are compatible with surrounding properties, and further provided that such materials shall comply with the architectural, safety and other requirements of the Township Building Code.

Additions to or renovations of buildings existing as of the date of the Section shall be subject to the requirements of this section. The Planning Commission shall have the authority to modify or waive these requirements or to extend them to the entire facade of the existing building.

In determining whether to apply the facade requirements of this section to additions or renovations of existing buildings, the following criteria shall be considered:

- 1) The location of the addition or renovation relative to the existing building.
- 2) The size relative to the existing building.
- 3) The location of the existing building.
- 4) Whether compliance with this section will result in architectural consistency with the existing building and improve the overall aesthetics of the building.
- 5) The practicality of requiring compliance with this section based on the design and structural integrity of the existing building.

10.05 ADDITIONAL REQUIREMENTS

a) General Requirements

- 1) Accessory Buildings. Section 3.12.
- 2) Landscaping for Non-Residential Uses. Article 26.
- 3) Parking of Recreational Vehicles. Section 3.25.
- 4) Signs. Article 28.
- 5) Off-Street Parking. Article 27.
- 6) Sidewalks. Article 30.

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b) Development Procedures

- 1) Site Plan Review. Article 23.
- 2) Conditional Land Uses. Article 24.
- 3) Site Condominiums. Article 25.

c) Appeals and Administration

- 1) Non-Conforming Lot and Uses. Article 31.
- 2) Zoning Board of Appeals. Article 32.

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ARTICLE 11

C-1

COMMERCIAL DISTRICT

11.01 PURPOSE.

The provisions of this section apply to the C-1 district. The C-1 district is established to recognize and to provide areas for light commercial development. Uses include those of a retail sales or service nature. Other uses which are compatible, incidental or accessory to light commercial development are also included. It is not intended that residential, heavy commercial, or industrial uses be permitted in this district except as authorized by this ordinance

11.02 DISTRICT REGULATIONS.

All principal, accessory, and conditional uses and structures in the C-1 district shall be subject to the area, location and height restrictions as specified in Article 35, Schedule of Zoning District Regulations.

11.03 PERMITTED USES AND STRUCTURES

Land and buildings in this district may be used for the following uses only:

- a) Any generally recognized retail business that supplies commodities on the premises within a completely enclosed building, such as but not limited to foods, pharmacy, liquor, furniture, clothing, dry goods, appliances or hardware.
- b) Any personal service establishment that performs services on the premises within a completely enclosed building, such as but not limited to repair shops for electronics, watches, shoes and similar items, tailor shops, print shops, hair and nail salons, barbershops, self-service laundries and photography studios.
- c) Professional offices for doctors, lawyers, architects, dentists, engineers, planners, chiropractors, insurance sales, mortgages, general consulting, general businesses not engaged in retail sales and other similar professions.
- d) Medical, optical, dental, and veterinary offices and clinics.
- e) Banks, credit unions, savings and loan associations, and other similar uses including those with drive-through facilities.
- f) Health and fitness establishments.
- g) Commercial schools including art, music, dance business, professional and trade.
- h) Restaurants, coffee shops, bakeries and similar retail food establishments. Outdoor dining is permitted where such dining does not encroach upon a minimum of five feet of unobstructed sidewalk space adjacent to the curb. Outdoor dining may be separated from the sidewalk only

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with movable planters, fencing or similar non-fixed barriers, provided they do not exceed a height of 36 inches including plant material. Any outdoor dining activity proposed for a public sidewalk or elsewhere in a road right-of-way must first be approved by the Township Board.

- i) Child care center.
- j) Hospitals.
- k) Adult foster care facilities, homes for the aged and nursing homes provided they are served by public water and sanitary sewer.
- l) Funeral homes.
- m) Churches, synagogues, temples and other similar facilities to be used for public worship.
- n) Collocated antenna subject to the provisions of Section 3.29(d) herein.
- o) Structure-mounted wind energy turbines (SMWET) and small wind energy turbines (SWET) in accordance with Article 29.
- p) Towers and antennas which do not exceed a height of 35 feet per Section 3.28 herein.
- q) Accessory uses and structures which are customarily incidental to any of the permitted principal uses and structures.

11.04 CONDITIONAL USES AND STRUCTURES

The following uses may be permitted in the C-1, Commercial District upon authorization as a Conditional Use by the Planning Commission in accordance with the requirements of Chapter 23 herein.

- a) Clubs and lodges per Section 24.11.
- b) Heliports per Section 24.13.
- c) Wireless communications towers over 35 feet in height per Section 3.29 herein.
- d) Multi-family dwellings per Section 24.23
- e) Self-service storage facility per Section 24.27.

11.05 SPECIFIC REGULATIONS

- a) *Dumpsters* - All dumpsters and trash containers shall be located behind the front line of the main building and shall be screened from view by landscaping, fencing or placement of the building in accordance with Section 28.08 herein.
- b) *Structure Facade* - At least 50 percent of that portion of a building, be it a front, side, or rear, which faces a public street shall be finished with face brick, wood, vinyl, glass, tinted and/or textured masonry block, fluted cement block, cement board, natural or cast stone, architectural pre-cast panel's or stucco-like material or a combination of these materials. In recognition of developing technologies in building materials, the Planning Commission may agree to approve other materials provided that they are compatible with surrounding properties, and further

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provided that such materials shall comply with the architectural, safety and other requirements of the Township Building Code.

Additions to or renovations of buildings existing as of the date of the Section shall be subject to the requirements of this section. The Planning Commission shall have the authority to modify or waive these requirements or to extend them to the entire facade of the existing building. In determining whether to apply the facade requirements of this section to additions or renovations of existing buildings, the following criteria shall be considered:

- 1) The location of the addition or renovation relative to the existing building.
- 2) The size relative to the existing building.
- 3) The location of the existing building.
- 4) Whether compliance with this section will result in architectural consistency with the existing building and improve the overall aesthetics of the building.
- 5) The practicality of requiring compliance with this section based on the design and structural integrity of the existing building.

c) Outdoor display of merchandise as an accessory use to the principal use of the parcel is permitted subject to the following requirements:

- 1) The merchandise displayed outdoors shall be the same as or shall be similar to the merchandise, which is offered for sale inside the principal building on the parcel.
- 2) The size and nature of the outdoor display shall clearly be incidental and subordinate to the principal use of the parcel such that the accessory use serves to support the principal use but could not function independently of the principal use.
- 3) The outdoor display of merchandise shall not create unsafe conditions for or a hazard to any person or vehicle.
- 4) The area devoted to the outdoor display of merchandise shall at all times be kept neat and orderly and not be allowed to become unsightly or a visual nuisance. Any debris, scrap material, litter, empty shelves, racks, pallets, boxes or similar material not containing display items shall be removed from the outdoor display area.

d) Each building which is subject to site plan review or which requires a building permit for expansion or alternation shall be equipped with an approved rapid entry system (such as "Knox Box") for emergency response services. Such system shall require the approval of the Township Fire Department.

11.06 ADDITIONAL REQUIREMENTS

a) General Requirements

- 1) Accessory Buildings. Section 3.12.
- 2) Landscaping for Non-Residential Uses. Article 25.
- 3) Parking of Recreational Vehicles. Section 3.25.
- 4) Signs. Article 28.
- 5) Off-Street Parking. Article 27.
- 6) Sidewalks. Article 30.

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b) Development Procedures

- 1) Site Plan Review. Article 23.
- 2) Conditional Land Uses. Article 24.
- 3) Site Condominiums. Article 25.

c) Appeals and Administration

- 1) Non-Conforming Lot and Uses. Article 31.
- 2) Zoning Board of Appeals. Article 32.

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ARTICLE 12

C-2 COMMERCIAL DISTRICT

12.01 PURPOSE.

The provisions of this section apply to the C-2 district. The area zoned C-2 is located along U.S. 10 and the retail and service uses allowed are intended to serve the residents of the Township but also passing traffic. Regulations are designed to encourage and facilitate the development of sound and efficient shopping and business activities.

12.02 DISTRICT REGULATIONS.

All principal, accessory, and conditional uses and structures in the C-2 district shall be subject to the area, location and height restrictions as specified in Article 35, Schedule of Zoning District Regulations.

12.03 PERMITTED USES AND STRUCTURES.

Land and buildings in this district may be used for the following uses only:

- a) Permitted uses allowed in the C-1 zone.
- b) Motels and hotels.
- c) Drive-in businesses including banks, drive-in restaurants and other retail food establishments, dry cleaning pickup stations, pharmacies, or similar personal services.
- d) Restaurants and other retail food establishments which permit the consumption of alcoholic beverages on the premises, or permit dancing or live entertainment and including production of alcoholic beverages on the premises for consumption on the premises provided this is accessory to the restaurant use.
- e) Gasoline service stations /convenience stores with or without restaurants or drive through vehicle wash facilities.
- f) Theaters.
- g) Automotive repairs per Section 24.25 (general and major/body).
- h) Clubs and lodges per Section 24.11.
- i) Repair and service establishments including but not limited to lawn mower repair, snowmobile repair, boat repair or air conditioner repair shops.
- j) Video rental and sales.
- k) Catering establishments.

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- l) Video gaming establishments.
- m) Public and institutional uses such as libraries, museums, civic centers, and auditoriums.
- n) Offices and showrooms of plumbers, electricians, decorators, or other similar trades.
- o) Recreational activities, indoor and outdoor as defined herein but excluding outdoor target shooting ranges.
- p) Open air businesses including, but not limited to: the sale and servicing of motor vehicles, boats, trailers, farm implements, yard decorations, nursery stock, storage buildings, recreational vehicles, lawn and garden equipment, mobile or modular homes, and similar uses per Section 23.36 herein.
- q) Retail building supply and equipment stores.
- r) Retail nurseries and garden centers including display of landscaping products such as mulch, woodchips, sod, dirt, and plant material and yard accessories.
- s) Ambulance service establishments.
- t) Ponds per Section 24.15 herein.
- u) Recreational vehicle park and campground.
- v) Adult foster care facilities, homes for the aged and nursing homes provided they are served by public water and sanitary sewer

12.04 CONDITIONAL USES AND STRUCTURES

The following uses may be permitted in the C-2, Commercial District upon authorization as a Conditional Use by the Planning Commission in accordance with the requirements of Article 24 herein.

- a) Warehousing, indoor storage, and self-storage per Section 24.37.
- b) Sexually oriented businesses and related activities per Section 24.20.
- c) Multi-family dwellings per Section 24.23.
- d) Automatic and self-serve vehicle wash facilities which are not attached to a gas station.
- e) Banquet halls, reception centers, or similar places of assembly.
- f) Heliports per Section 24.13.
- g) Wireless communications towers over 35 feet in height per Section 3.29 herein.
- h) Medium wind energy turbine(s) (MWET) and large wind energy turbine(s) (LWET) in accordance with Article 29 herein.

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12.05 SPECIFIC REGULATIONS

a) *Dumpsters*. All dumpsters and trash containers shall be located behind the front line of the main building and shall be screened by landscaping, fencing or placement of the building in accordance with Section 26.08.

b) *Structure Façade*. At least 50 percent of that portion of a building, be it a front, side, or rear, which faces a public street shall be finished with face brick, wood, vinyl, glass, tinted and/or textured masonry block, fluted cement block, cement board, natural or cast stone, architectural pre-cast panel's or stucco-like material or a combination of these materials. In recognition of developing technologies in building materials, the Planning Commission may agree to approve other materials provided that they are compatible with surrounding properties, and further provided that such materials shall comply with the architectural, safety and other requirements of the Township Building Code.

Additions to or renovations of buildings existing as of the date of the Section shall be subject to the requirements of this section. The Planning Commission shall have the authority to modify or waive these requirements or to extend them to the entire facade of the existing building. In determining whether to apply the facade requirements of this section to additions or renovations of existing buildings, the following criteria shall be considered:

- 1) The location of the addition or renovation relative to the existing building.
- 2) The size relative to the existing building.
- 3) The location of the existing building.
- 4) Whether compliance with this section will result in architectural consistency with the existing building and improve the overall aesthetics of the building.
- 5) The practicality of requiring compliance with this section based on the design and structural integrity of the existing building.

c) Outdoor display of merchandise as an accessory use to the principal use of the parcel is permitted subject to the following requirements:

- 1) The merchandise displayed outdoors shall be the same as or shall be similar to the merchandise, which is offered for sale inside the principal building on the parcel.
- 2) The size and nature of the outdoor display shall clearly be incidental and subordinate to the principal use of the parcel such that the accessory use serves to support the principal use but could not function independently of the principal use.
- 3) The outdoor display of merchandise shall not create unsafe conditions for or a hazard to any person or vehicle.
- 4) The area devoted to the outdoor display of merchandise shall at all times be kept neat and orderly and not be allowed to become unsightly or a visual nuisance. Any debris, scrap material, litter, empty shelves, racks, pallets, boxes or similar material not containing display items shall be removed from the outdoor display area.

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d) Each building which is subject to site plan review or which requires a building permit for expansion or alternation shall be equipped with an approved rapid entry system (such as "Knox Box") for emergency response services. Such system shall require the approval of the Township Fire Department.

12.06 ADDITIONAL REQUIREMENTS

a) General Requirements

- 1) Accessory Buildings. Section 3.12.
- 2) Landscaping for Non-Residential Uses. Article 25.
- 3) Parking of Recreational Vehicles. Section 3.25.
- 4) Signs. Article 27.
- 5) Off-Street Parking. Article 27.
- 6) Sidewalks. Article 30.

b) Development Procedures

- 1) Site Plan Review. Article 23.
- 2) Conditional Land Uses. Article 24.
- 3) Site Condominiums. Article 25.

c) Appeals and Administration

- 1) Non-Conforming Lot and Uses. Article 31.
- 2) Zoning Board of Appeals. Article 32.

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ARTICLE 13

I INDUSTRIAL DISTRICT

13.01 PURPOSE.

The Industrial District is a zoning district which permits a wide range of manufacturing, assembling, compounding, and treatment of articles or materials; as well as warehousing, research, and related business office uses which are compatible with one another and with surrounding land uses and with an absence of objectionable external effects. Limited service and retail support uses are also permitted along major roadways on the I Zone.

13.02 DISTRICT REGULATIONS.

a) All principal, accessory, and conditional uses and structures in the I district shall be subject to the area, location and height restrictions as specified in Article 35, Schedule of Zoning District Regulations.

b) Notwithstanding the need and desire to encourage said development within the Township, however, industrial uses shall not be unreasonably offensive, hazardous, or debilitating to surrounding property or the Township through the effects of noise, smoke, odor, dust, noxious gases, vibration, glare, heat, fire hazards, wastes, or traffic. In those instances where there may be doubt regarding the effect of the operation, the Planning Commission or Township Board may require the prospective operator to demonstrate, through the use of qualified technical persons and acceptable testing techniques, that protective devices shall be utilized that will categorically ensure the compliance with appropriate regulations (i.e., Michigan Occupational Safety and Health Act (MCL 408.101 et seq.), Michigan Department of Natural Resources, Natural Resources and Environmental Protection Act (MCL 324.101 et seq.), Manistee-Mason District Health Department, etc.).

13.03 PERMITTED USES AND STRUCTURES.

Land and buildings in this district may be used for the following uses only:

- a) The manufacture, compounding, processing, packing, or treatment of such products as candy, cosmetics, drugs, perfumes, pharmaceuticals, toiletries, and food products.
- b) The manufacture, compounding, assembly, or treatment of articles from the following previously prepared materials such as aluminum, bone, cellophane, canvas, cloth, cork, feathers, felt, fibers, fur, glass, hair, horn, leather, paint, paper, paperboard, plastics, precious or semiprecious metals or stones, shell rubber, tin, iron, steel, tobacco, wood and yarn, food products.

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- c) Manufacturing or fabrication of products, components, devices, equipment, systems and parts, such as the following: Ceramic products; communication transmission and reception equipment; electronic processing equipment and systems; electrical appliances; electronic instruments, devices and components; automotive parts and components, glass molding, edging, beveling and silvering; graphics and art equipment; jewelry, including products from precious or semi-precious stones or metals; medical or dental equipment; metering instruments; optical devices, equipment and systems; and furniture assembly.
- d) Printing and publishing.
- e) Processing and packaging of agricultural products.
- f) Wholesale establishments including automotive equipment, drugs, chemicals, dry goods, apparel, food, farm products, electrical goods, hardware, machinery, equipment, metals, paper products and furnishing and lumber and building products.
- g) Warehouses, distribution and storage facilities including mini-warehouse and storage buildings.
- h) Research and development facilities, including production activities.
- i) Motor freight terminal including garaging and maintenance of equipment.
- j) Freight forwarding packing and crating services.
- k) Municipal buildings and public service buildings.
- l) Grain storage and milling, feed store, storage and sales of agricultural products and similar uses.
- m) Building contractors such as painters, plumbers, electrical, cement, heating and air conditioning, fencing, and similar uses provided that any materials or equipment kept outside shall be screened from the view of nearby properties and roadways.
- n) Wholesale distribution and display of landscaping products such as mulch, woodchips, sod, dirt, and plant material and yard accessories.
- o) Machine shops.
- p) Tool and die establishments.
- q) Park and ride lots operated by a public agency
- r) Automotive repair (general and major/body) including wrecker services.
- s) Building materials and supplies (wholesale and retail).
- t) Recreation activities, indoor.
- u) Churches, synagogues, temples and other similar facilities to be used for public worship.
- v) Collocated antenna, subject to the provisions of Section 3.29(d) herein.
- w) Structure-mounted wind energy turbines (SMWET) and small wind energy turbines (SWET) in accordance with Article 29.

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- x) The following uses are permitted in the Industrial Zone but only on a parcel which has the required frontage on South Pere Marquette Highway:
- 1) Any generally recognized retail business that supplies commodities on the premises within a completely enclosed building, such as but not limited to foods, pharmacy, liquor, furniture, clothing, dry goods, appliances or hardware.
 - 2) Professional offices for doctors, lawyers, architects, dentists, engineers, planners, chiropractors, insurance sales, mortgages, general consulting, general businesses not engaged in retail sales and other similar professions.
 - 3) Motels, hotels.
 - 4) Open air businesses including, but not limited to: the sale and servicing of motor vehicles including trucks, trailers, boats, farm implements, yard decorations, nursery stock, storage buildings, recreational vehicles, lawn and garden equipment, mobile or modular homes, construction equipment and similar uses per Section 24.26 herein.
 - 5) Gasoline service stations /convenience stores with or without restaurants or drive through vehicle wash facilities.
 - 6) Drive-in businesses including banks, drive-in restaurants and other retail food establishments, dry cleaning pickup stations, pharmacies, or similar personal services.
- y) Accessory uses and structures which are customarily incidental to any of the permitted principal uses and structures.

13.04 CONDITIONAL USES AND STRUCTURES

The following uses may be permitted in the Industrial District upon authorization as a Special Land Use by the Planning Commission in accordance with the requirements of Article 24 herein.

- a) Manufacturing, compounding, processing, packaging, treating, assembling and bulk storage of:
- 1) Chemical products such as paint enamels, wood chemicals agricultural and allied chemicals.
 - 2) Rubber manufacturing or reclaiming, such as tires, tubes, footwear.
 - 3) Stone, clay, glass, cement, brick, pottery, abrasive, tile and related products.
 - 4) Primary metal industries, including blast furnaces, steel works, foundries, smelting or refining of nonferrous metals or alloys rolling and extruding.
 - 5) Fabricated metal manufacturing, including ordnance, engines, machinery, electrical equipment, metal stamping, wire products and structural metal products.
- b) Pulp and paper manufacturing.
- c) Heating and electric power generating plants
- d) Salvage yards per Section 24.19

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- e) Recycling facilities per Section 24.24.
- f) Slaughter house, rendering plant.
- g) Petroleum refining, paving materials, roofing materials and other related industries.
- h) Waste treatment facilities.
- i) Water supply and treatment facilities.
- j) Commercial fuel depot.
- k) Lumberyards
- l) Solid waste processing facility, including composting as an incidental use.
- m) Refuse and garbage incinerators
- n) Crematoriums.
- o) Sale or rental and display of the following: temporary mobile storage units (pods) and temporary refuse collection units; fencing, pre-cast concrete products; and granite, stone or marble or similar products or raw materials.
- p) Establishments which produce alcoholic beverages primarily for distribution off site and which may also engage in one or more of the following as a small percentage of the overall sales of the business and which devote a small portion of the square footage of the building to the following:
 - 1) The retail sale of alcoholic beverages produced on site to the general public for consumption on the site and/or on a retail take-out basis including the limited sale of snacks, pre-packaged foods, and non-alcoholic beverages;
 - 2) Conducting tours for the general public of the facility;
 - 3) The retail sale of items related to the company and its products such as glasses, posters, and clothing.
- q) Wireless communications towers over 35 feet in height per Section 3.29.
- r) Medium wind energy turbine(s) (MWET) and large wind energy turbine(s) (LWET) in accordance with Article 29

13.05 SPECIFIC REGULATIONS

Parcels located within the First Street Business Park and the Pere Marquette Industrial Park are exempt from the following requirements to the extent that the following requirements are regulated by the protective covenants of these respective parks otherwise the following requirements shall control.

- a) *Dumpsters*. All dumpsters and trash containers shall be located behind the front line of the main building and shall be screened from view by landscaping, fencing or placement of the building in accordance with Section 26.08.

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b) *Structure Façade*. At least 50 percent of that portion of a building, be it a front, side, or rear, which faces a public street shall be finished with face brick, wood, vinyl, glass, tinted and/or textured masonry block, fluted cement block, cement board, natural or cast stone, architectural pre-cast panel's or stucco-like material or a combination of these materials.

In recognition of developing technologies in building materials, the Planning Commission may agree to approve other materials provided that they are compatible with surrounding properties, and further provided that such materials shall comply with the architectural, safety and other requirements of the Township Building Code.

Additions to or renovations of buildings existing as of the date of the Section shall be subject to the requirements of this section. The Planning Commission shall have the authority to modify or waive these requirements or to extend them to the entire facade of the existing building. In determining whether to apply the facade requirements of this section to additions or renovations of existing buildings, the following criteria shall be considered:

- 1) The location of the addition or renovation relative to the existing building.
- 2) The size relative to the existing building.
- 3) The location of the existing building.
- 4) Whether compliance with this section will result in architectural consistency with the existing building and improve the overall aesthetics of the building.
- 5) The practicality of requiring compliance with this section based on the design and structural integrity of the existing building.

c) The outside storage of materials and equipment not licensed for driving on public streets is permitted subject to the following restrictions:

- 1) Materials may be stored only in the side or rear yards, except that materials may not be stored on the street side of a corner lot or in any required yard.
- 2) All storage of materials and equipment used in the business except vehicles shall be visually screened to a height of at least six feet above the highest elevation of the nearest adjacent road or property bordering the site unless in the opinion of the Planning Commission or other approving authority the material is stored in a manner that it is not readily visible from off site or that the material is located such a substantial distance from adjacent properties and roadways that it is not a visual nuisance as seen from off site.
- 3) In no case shall the outside storage of materials or equipment be stacked higher than the height of the visual screen unless in the opinion of the Planning Commission or other approving authority the material is stored in a manner that it is not readily visible from off site or that the material is located such a substantial distance from adjacent properties and roadways that it is not a visual nuisance as seen from off site.

d) Operations which involve the repair or storage of damaged vehicles shall immediately remove all fluids from such vehicles if there is evidence that leaking of fluids is occurring or could occur. This is necessary to minimize fire hazards and to prevent such fluids from contaminating ground water and surface water.

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- e) Any use permitted in the Industrial Zone shall not create a vibration which is discernible to off-site residents or occupants.
- f) All business shall be conducted in such a manner that any noise, smoke, dust, vibration, or like nuisance shall not adversely affect adjoining properties.
- g) Each building which is subject to site plan review or which requires a building permit for expansion or alternation shall be equipped with an approved rapid entry system (such as "Knox Box") for emergency response services. Such system shall require the approval of the Township Fire Department.

13.06 ADDITIONAL REQUIREMENTS

a) General Requirements

- 1) Accessory Buildings. Section 3.12.
- 2) Landscaping for Non-Residential Uses. Article 25.
- 3) Parking of Recreational Vehicles. Section 3.25.
- 4) Signs. Article 28.
- 5) Off-Street Parking. Article 27.
- 6) Sidewalks. Article 30.

b) Development Procedures

- 1) Site Plan Review. Article 23.
- 2) Conditional Land Uses. Article 24.
- 3) Site Condominiums. Article 25.

c) Appeals and Administration

- 1) Non-Conforming Lot and Uses. Article 31.
- 2) Zoning Board of Appeals. Article 32.

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ARTICLE 14

HAR HARBOR DISTRICT

14.01 PURPOSE.

The provisions of this section apply to the HAR district. The HAR district is established to recognize and provide areas for the shipping, receiving, and storage of materials at a water port facility. Desired uses are those which require docking facilities in conjunction with a deep-water port. Service facilities and other uses which are compatible, incidental or accessory to surface water shipping are included. It is not intended that residential or commercial uses be permitted in this district except as authorized by this ordinance. Such uses are provided for in other, more appropriate, locations.

14.02 DISTRICT REGULATIONS.

All principal, accessory and conditional uses and structures in the HAR district shall be subject to the area, location and height restrictions as specified Article 35, Schedule of Zoning District Regulations.

14.03 PERMITTED USES AND STRUCTURES.

Land and buildings in this district may be used for the following uses only:

- a) Docking facilities.
- b) Weighing stations.
- c) Outside storage for materials having been shipped in or awaiting shipping out.
- d) Loading and unloading facilities.
- e) Towers and antennas which do not exceed a height of 35 feet per Section 3.28 herein.
- f) Accessory uses and structures which are customarily incidental to any of the principal uses and structures.
- g) Structure-mounted wind energy turbines (SMWET) and small wind energy turbines (SWET) in accordance with Article 29.

14.04 SPECIFIC REGULATIONS

- a) *Dumpsters* - All dumpsters and trash containers shall be located behind the front line of the main building and shall be screened from view by landscaping, fencing or placement of the building in accordance with Section 26.08.
- b) The outside storage of materials and equipment not licensed for driving on public streets is permitted subject to the following restrictions:

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- 1) Materials may be stored only in the side or rear yards, except that materials may not be stored on the street side of a corner lot or in any required yard.
 - 2) All storage of materials and equipment used in the business except vehicles shall be visually screened to a height of at least six feet above the highest elevation of the nearest adjacent road or property bordering the site unless in the opinion of the Planning Commission or other approving authority the material is stored in a manner that it is not readily visible from off site or that the material is located such a substantial distance from adjacent properties and roadways that it is not a visual nuisance as seen from off site.
 - 3) In no case shall the outside storage of materials or equipment be stacked higher than the height of the visual screen unless in the opinion of the Planning Commission or other approving authority the material is stored in a manner that it is not readily visible from off site or that the material is located such a substantial distance from adjacent properties and roadways that it is not a visual nuisance as seen from off site.
- c) Operations which involve the repair or storage of damaged vehicles shall immediately remove all fluids from such vehicles if there is evidence that leaking of fluids is occurring or could occur. This is necessary to minimize fire hazards and to prevent such fluids from contaminating ground water and surface water.
- d) Any use permitted in the Harbor District shall not create a vibration which is discernible to off-site residents or occupants.
- e) All business shall be conducted in such a manner that any noise, smoke, dust, vibration, or like nuisance shall not adversely affect adjoining properties.

14.05 ADDITIONAL REQUIREMENTS

a) General Requirements

- 1) Accessory Buildings. Section 3.12.
- 2) Landscaping for Non-Residential Uses. Article 25.
- 3) Parking of Recreational Vehicles. Section 3.25.
- 4) Signs. Article 27.
- 5) Off-Street Parking. Article 26.
- 6) Sidewalks. Article 29.

b) Development Procedures

- 1) Site Plan Review. Article 23.
- 2) Conditional Land Uses. Article 24.
- 3) Site Condominiums. Article 25.

c) Appeals and Administration

- 1) Non-Conforming Lot and Uses. Article 31.
- 2) Zoning Board of Appeals. Article 32.

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ARTICLE 15

AP

AIRPORT DISTRICT

15.01 PURPOSE. The provisions of this section apply to the AP district. The AP district is established to recognize the present county airport and county fairgrounds. It is the intent of this ordinance that all land areas in this district be used in conjunction with the principal uses of an airport and/or fairground facilities. It is also the intent of the ordinance that all lands in this district, regardless of ownership, conform to the rules and regulations of this ordinance. It is not the intent to permit any residential, commercial, recreational, industrial or any other uses in this district except as authorized by the provisions of this ordinance.

15.02 DISTRICT REGULATIONS. All principal, accessory and conditional uses and structures in the Airport district shall be subject to the area, location and height restrictions as specified in Article 35, Schedule of Zoning District Regulations.

15.03 PERMITTED USES AND STRUCTURES. Land and buildings in this district may be used for the following uses only:

- a) Airports when owned or operated by a government agency.
- b) Fairgrounds and associated uses including outdoor events.
- c) Governmental buildings.
- d) Public parks and outdoor recreation activity as defined herein.
- e) Convention center and visitors center.
- f) Storage buildings.
- g) Commercial activities when accessory and subordinate to a principal permitted use and when in accordance with all other applicable laws and regulations and approved by the governmental agency controlling said principal use.
- h) Private garages and storage sheds when accessory to detached single-family dwellings lawfully existing at the time of the effective date of this ordinance.
- i) Grandstands and bleachers.
- j) Recreational equipment.
- k) Flea markets, horse shows, vehicle exhibits and similar outdoor events.
- l) Structure-mounted wind energy turbines (SMWET) and small wind energy turbines (SWET) in accordance with Article 29.

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15.04 ADDITIONAL REQUIREMENTS

a) General Requirements

- 1) Accessory Buildings. Section 3.12.
- 2) Landscaping for Non-Residential Uses. Article 26.
- 3) Parking of Recreational Vehicles. Section 3.25.
- 4) Signs. Article 28.
- 5) Off-Street Parking. Article 27.
- 6) Sidewalks. Article 30.

b) Development Procedures

- 1) Site Plan Review. Article 22.
- 2) Conditional Land Uses. Article 24.
- 3) Site Condominiums. Article 25.

c) Appeals and Administration

- 1) Non-Conforming Lot and Uses. Article 31.
- 2) Zoning Board of Appeals. Article 32.

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ARTICLE 16

PUMPED STORAGE DISTRICT

16.01 PURPOSE. The purpose of this district is to recognize the unique nature of the pumped storage reservoir located in the southern portion of the Township adjacent to the Lake Michigan shoreline and to provide a separate zoning district to permit the continued operation of this existing use.

16.02 DISTRICT REGULATIONS. All principal, accessory and conditional uses and structures in the Pumped Storage District shall be subject to the area, location and height restrictions as specified in Article 35, Schedule of Zoning District Regulations. In addition, all uses shall comply with the applicable Federal and State of Michigan requirements.

16.03 PERMITTED USES AND STRUCTURES.

Land and buildings in this district may be used for the following uses only:

- a) Hydroelectric power plant and reservoir.
- b) Accessory uses and structures which are customarily incidental to any of the principal uses and structures.
- c) Parks, playgrounds, picnic and recreation area for use by the public.

16.04 ADDITIONAL REQUIREMENTS

a) General Requirements

- 1) Accessory Buildings. Section 3.12.
- 2) Landscaping for Non-Residential Uses. Article 25.
- 3) Parking of Recreational Vehicles. Section 3.25.
- 4) Signs. Article 28.
- 5) Off-Street Parking. Article 27.
- 6) Sidewalks. Article 30.

b) Development Procedures

- 1) Site Plan Review. Article 22.
- 2) Conditional Land Uses. Article 24.
- 3) Site Condominiums. Article 25.

c) Appeals and Administration

- 1) Non-Conforming Lot and Uses. Article 31.
- 2) Zoning Board of Appeals. Article 32.

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ARTICLE 17

CONSERVATION FLOOD PLAIN OVERLAY DISTRICT

17.01 DESCRIPTION AND PURPOSE

The purpose of the Conservation Flood Plain Overlay Zone is to apply specific controls on the use of land in those areas of the Township which are subject to predictable and periodic inundation which is principally the area adjacent to the Pere Marquette River, Pere Marquette Lake, Lincoln Lake, Lincoln River and Lake Michigan. Such regulations, while permitting reasonable economic use of said lands, will help protect the public safety and health, and prevent or minimize public and private economic losses caused by periodic flooding, and preserve the ability of flood plains to carry and discharge a base flood.

17.02 DEFINITIONS

For purposes of this Section the following definitions shall apply:

Flood or Flooding- A general and temporary condition of partial or complete inundation of normally dry land areas from: (1) The overflow of inland waters; (2) The unusual and rapid accumulation of runoff or surface waters from any source.

Flood Hazard Area: Land, which on the basis of available flood plain information is subject to a one percent or greater chance of flooding in any given year.

Flood Insurance Rate Map (FIRM): A map of the Township prepared by the Federal Emergency Management Agency, which identifies the 100- and 500-year flood plain and other related flood information; and which is used as the official floodplain map for flood insurance purposes.

Flood Insurance Study: The official report provided by the Federal Emergency Management Agency containing flood profiles, as well as the Flood Hazard Boundary-Floodway Map and the water surface elevations of the base flood.

100 Year Flood Plain: Same as Flood Hazard Area. Also referred to as the flood plain.

Flood proofing: Any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

Floodway: The channel of a river or other watercourse and the adjacent land areas designated in the Flood Insurance Study which shall be reserved in order to discharge the base flood.

Floodway is also the same as the Regulatory Floodway.

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**Article 17-Conservation Flood Plain Overlay District
Pere Marquette Charter Township**

17.03 APPLICABILITY

All land and land uses within the designated flood hazard area shall be subject to the terms specified herein and the provisions and requirements of the National Flood Insurance Program, as constituted in accord with the National Flood Insurance Act of 1968, as amended,

and subsequent enactments and rules and regulations promulgated in furtherance of this program by the Federal Emergency Management Agency, as published in the Federal Register, Vd. 41, 207, October 26, 1976, as amended.

17.04 100 YEAR FLOOD PLAIN DELINEATION

a) The boundaries of the 100-year flood plain within Pere Marquette Charter Township shall be as determined by the report entitled The Flood Insurance Study, Mason County, Michigan as amended, Federal Emergency Management Agency, with accompanying Flood Insurance Rate Maps, Flood Boundary Maps and Floodway Maps for Pere Marquette Charter Township. Within the flood plain area, a regulatory floodway shall coincide with the floodway boundaries indicated on the Flood Boundary and Floodway Maps.

b) Where a dispute involves an allegation that the boundary is incorrect as mapped and Federal Insurance Administration flood plain studies are being questioned, the Township Zoning Administrator shall modify the boundary of the 100-year flood plain only upon receipt of an official letter of map amendment issued by the Federal Insurance Administration.

17.05 PERMITTED USES

This district is an overlay district and is intended to supplement the regulations of any underlying zone. The applicant must therefore conform to the use and bulk area regulations of the underlying district as well as to the specific flood proofing regulations of the Flood Hazard Overlay Area as provided in Article 17.

17.06 FLOOD PLAIN REGULATIONS

a) Filling of the Flood Plain.

Filling within the flood hazard area with any material in any manner which does not involve the construction or installation of a structure or building may be allowed by the Zoning Administrator provided such filling is first approved by the Michigan Department of Environment, Great Lakes and Energy. Evidence of this approval shall be provided to the Zoning Administrator before any filling of the flood plain occurs.

b) Construction in the Flood Plain.

The construction of a structure or building in the flood plain may be permitted upon authorization as a Conditional Land Use in accordance with the provisions of Article 24 herein and the provisions listed below:

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- 1) In addition to the information required by Article 23 and Article 24 for submission of a Conditional Land Use request the applicant shall provide the following information:
- i. A description and drawing of the extent to which any watercourse will be altered or relocated as a result of proposed development.
 - ii. A certified land survey illustrating the elevation and location of the flood hazard area, areas in the flood plain which are proposed to be filled and the proposed structure and /or building and appropriate additional site information as deemed necessary by the Planning Commission.
 - iii. Proof that the proposed development has been approved by the Michigan Department of Environment, Great Lakes and Energy and other applicable state and federal agencies shall be provided as a condition of approval.
- 2) In approving a Conditional Land Use for construction in the flood plain the following standards shall be met:
- i. New or replaced water supply shall be so designed as to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood water;
 - ii. On-site waste water disposal systems shall be located so as to avoid impairment of or contamination from the systems during flooding;
 - iii. When the limit of the 100-year flood has been provided by the Federal Insurance Administration, all structures shall have the lowest habitable floor elevated to at least one foot above the 100-year flood elevation or together with attendant utility and sanitary facilities, shall be flood proofed to at least one foot above the 100-year flood elevation;
 - iv. New construction must be anchored to prevent flotation, collapse, or lateral movement due to flood water related forces;
 - v. Construction methods and practices used shall minimize flood damage;
 - vi. Construction materials and utility equipment used shall be resistant to flood damage or located to avoid flood damage.
 - vii. The applicant shall provide appropriate building and site plans and engineering data to demonstrate compliance with the above standards.

17.07 DISCLAIMER OF LIABILITY

- a) The degree of flood protection required by this Ordinance is considered reasonable for regulatory purposes and is based upon engineering and scientific methods of study. Larger floods may occur on rare occasions. Flood heights may be increased by manmade or natural causes, such as ice jams and bridge openings restricted by debris.
- b) Approval of the use of land under this Section shall not be considered a guarantee or warranty of safety from flood damage. This Ordinance does not imply that areas outside the 100-year floodplain will be free from flood damage. This Ordinance does not create liability on the part of

Purpose, Scope & Validity	Definitions	General Provisions	Zoning Districts	Off Street Parking
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Article 17-Conservation Flood Plain Overlay District
Pere Marquette Charter Township

Pere Marquette Charter Township or any officer or employee thereof for any flood damages that result from reliance on this Ordinance or any administrative decision lawfully made thereunder.

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ARTICLE 18

NATIONAL SCENIC RIVER OVERLAY ZONE

18.01 PURPOSE

The provisions of this section apply to the National Scenic River Overlay Zone. The purpose of this provision is to establish an overlay zone which applies various use and developmental requirements in addition to the underlying zoning districts. Where there is conflict between zoning provisions, it is the intent of this ordinance that the most restrictive requirements apply.

18.02 INTENT

The intent of this overlay zone is to provide for uses and development consistent with the provisions of the Pere Marquette National Scenic River Management Plan (under the provisions of the Federal Wild and Scenic Rivers Act, Public Law 95-625, and any amendment thereto) and the Pere Marquette Natural River Plan (under the provisions of part 305 of the Natural Resources and Environmental Protection Act (MCL 324.30501 et seq.)).

18.03 AREA AFFECTED

The boundaries affected by the National Scenic River Overlay Zone shall be consistent with the boundaries of those identified by the Pere Marquette National Scenic River Management Plan, as prepared by the United States Department of Agriculture, Forest Service, and approved on January 10, 1983. A copy of the plan text and map shall be filed in the office of the Pere Marquette Charter Township Clerk.

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ARTICLE 19

HIGH RISK EROSION OVERLAY DISTRICT

19.01 PURPOSE.

The Township has determined that high risk erosion areas present unique environmental, health, safety and welfare concerns due to the potential for erosion by Lake Michigan, due to the general lack of public water and sanitary sewer service for such areas in the foreseeable future, and due to the character of existing development of lands in and near the high risk erosion areas. The purpose and intent of this section is to establish an overlay zone to regulate the uses of lands, the density of development, and the location of structures in or adjacent to the high risk erosion areas. The High Risk Erosion Overlay Zone, without limitation, is intended to:

- a) Regulate the placement of structures and provide setback distances from the bluff line for permanent structures, which are based on studies prepared from time to time under part 323 of the Natural Resources and Environmental Protection Act (MCL 324.32301 et seq.), and which shall be consistent with part 323 and the promulgated regulations to provide protection from shoreline erosion.
- b) Regulate the density of development of lands in the High Risk Erosion Overlay Zone to ensure the ability to move a readily moveable structure within its lot or building area, to reduce potential problems with obtaining potable well water and properly operating septic systems in light of the conditions in the area and the lack of public water and sewer service, and to be consistent with the general single-family residence character of the vicinity.
- c) Regulate allowed uses in the High Risk Erosion Overlay Zone to be in harmony with existing single-family dwellings in the vicinity and to prohibit use which may adversely affect the high risk erosion areas and the property values of residents.
- d) Minimize the economic hardships that residents or property owners may face in the case of unanticipated property loss due to severe erosion.

19.02 CONFLICTING ZONING PROVISIONS.

The High Risk Erosion Overlay Zone is an overlay zone for lands in portions of the A/R district and portions of the R-1 district of the ordinance, which lands lie in or adjacent to high risk erosion areas. Where there is any conflict between zoning provisions, the provisions of this High Risk Erosion Overlay Zone shall apply and take precedence over other provisions as to lands located, entirely or partially, in the High Risk Erosion Overlay Zone. Unless otherwise addressed in the section, zoning regulations of the underlying zoning districts shall apply to such lands.

19.03 LANDS INCLUDED.

- a) The boundaries of the High Risk Erosion Overlay Zone are shown on the HREOZ map attached to this section, which map is incorporated by reference as part of this ordinance.

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Article 19- High Risk Erosion Overlay District Pere Marquette Charter Township

The boundaries of the High Risk Erosion Overlay Zone have been established with consideration of studies and information concerning high risk erosion areas in the township provided by the Michigan Department of Environment, Great Lakes and Energy in a map of high risk erosion areas for Pere Marquette Township and in a listing entitled "Property Numbers in High Risk Erosion Areas in Pere Marquette Township, Mason County" bearing a date of notification of January 22, 1996, and any subsequent, updated maps and lists provided by the Michigan Department of Environment, Great Lakes and Energy. Copies of such map and list shall be filed with the township clerk and shall be available for public review.

b) ***Boundaries of high risk erosion areas.*** The end points of the high risk erosion areas provided below coincide with descriptions provided in the shore-land erosion studies of the Michigan Department of Environment, Great Lakes and Energy, and are as follows:

1) High risk erosion area A. The north end of the high risk erosion area is in Section 9, T18N, R18W and lies 990 feet due north of a line extended westerly to the shoreline from the intersection of Bryant Road and N. Lakeshore Drive. The south end of the high risk erosion area is in Section 9, T18N, R18W and lies at the line extended westerly to the shoreline from intersection of Bryant Road and N. Lakeshore Drive.

2) High risk erosion area B. The north end of the high risk erosion area is in Section 22, T18N, R18W and lies 1,100 feet north of the intersection line of Sections 22 and 27, T18N, R18W and the shoreline. The south end of the high risk erosion area is in Section 3, T17N, R18W and lies at a point on the shore 1,100 feet north of the northern most Ludington Pumped Storage breakwater.

19.04 PERMITTED USES AND STRUCTURES

Land and buildings in this district may be used for the following uses only:

- a) Single-family detached dwellings.
- b) Cemeteries.
- c) Public parks and playgrounds subject to site plan approval by the Planning Commission.
- d) Public and private conservation area for the preservation of water, soil, open space, forest or wildlife resources.
- e) Adult foster care family home (one to six adults).
- f) Family child care home (one to six minor children).
- g) Adult day care home (one to six adults).
- h) Essential public service equipment per Section 3.19.
- i) Home occupations per Section 3.39.
- j) Collocated antenna, subject to the provisions of Section 3.29.
- k) Structure-mounted wind energy turbines (SMWET) and small wind energy turbines (SWET) in accordance with Article 29.
- l) Towers and antennas which do not exceed a height of 35 feet per Section 3.28.

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- m) Accessory uses and structures which are customarily incidental to any of the permitted principal uses and structures.

19.05 LOT SIZE AND SETBACK REGULATIONS

- a) Area A. The requirements for the A-1 Zone as contained in the Schedule of District Regulations shall apply to uses established in Area A.
- b) Area B. The requirements for the A-1 Zone as contained in the Schedule of District Regulations shall apply to uses established in Area B.

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c) A/R Agricultural/Residential shall be as follows:

Uses	Minimum Lot Area	Minimum Lot Width (feet)	Minimum Front Yard (feet)	Minimum Rear Yard (feet)	Minimum Side Yard (feet)	Maximum Height (feet)
Single-family dwellings	2 acres	150	40	40	20	35
Cemeteries	Same as Article 35, Schedule of Zoning District Regulations A/R District					
All other principal uses.	5 acres	150	40	40	40	35

19.06 BLUFF LINE SETBACK.

In addition to any yard setback applicable under the provisions of this ordinance, no permanent structure or any portion of it shall be erected or located between the shoreline and the line defining the required bluff line setback distance provided the table below. Such setback line shall be construed as running parallel to the bluff line and the setback distance shall be measured in a landward direction as a distance horizontal from and perpendicular to the bluff line. If the bluff line recedes (moves landward) over time, the required minimum setback distance shall be measured from the location of the bluff line existing at the time the specific permit, variance or approval is sought.

REQUIRED SETBACK DISTANCE FROM THE BLUFF LINE

Designated High Risk Areas	High Erosion	Readily Moveable Structures Less Than 3,500 sq. ft. (30 years)	Structures Greater than 3,500 sq. ft. or Not Readily Moveable Small Permanent Structure (60 years)
Area A		80 ft.	145 ft.
Area B		70 ft.	130 ft.

Nonpermanent structures are exempt from the setback requirements of this section. Such structures are subject to all other provisions of this zoning ordinance applicable to structures generally. To the fullest extent practical, nonpermanent structures located in high risk erosion areas shall be removed prior to loss or damage by erosion.

19.07 VARIANCES

The zoning board of appeals may grant a variance from the required setback distances of this Article 19 in the following situations.

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a) Substandard lots having the area and characteristics that would permit moving of the permanent structures. A variance from a portion of the required setback distance may be granted upon compliance with all the following conditions:

- 1) The structure to be constructed or moved on the lot shall be a readily moveable small permanent structure.
- 2) That there is access to and from the site of sufficient width and acceptable grade.
- 3) If a sanitary sewer is not used, the septic system, tile field and/or other waste handling facility shall be located landward of the principal structure.
- 4) The structure shall be located as far landward of the bluff line as possible under the requirements of this ordinance, but in any event not less than 30 feet of the then-existing bluff line.
- 5) The readily moveable structure is not less than 30 feet landward of the bluff line and is not located on a lakeward-facing slope of 60 percent or more.

b) Substandard lots lacking the area and/or other characteristics that would permit moving of the permanent structures or substandard lots upon which large permanent structures are proposed. If a nonconforming parcel does not have access to and from the place where the structure is proposed to be located of sufficient width and acceptable grade to erect or move a readily moveable structure, or if the application is for a large permanent structure on a nonconforming parcel, a special exception shall be granted to utilize a shore protection structure in place of a portion of the required setback distance. A variance from a portion of the required setback distance may be granted upon compliance with all the following conditions:

- 1) If a sanitary sewer is not used, the septic system, tile field and/or other waste handling facility shall be located at least as far landward of the bluff line as the principal structure.
- 2) The permanent structure shall be located as far landward of the bluff line as possible under the requirements of this ordinance, but in any event not less than 30 feet of the then existing bluff line.
- 3) The shore protection structure shall be designed to meet or exceed a 20-year storm event at the site for small permanent structures and a 50-year storm event at the site for large permanent structures. A professional engineer shall certify that the structure has been designed and will be constructed in accordance with these standards. If the shore protection structure is constructed in the waters of the Great Lakes or lies below the ordinary high-water mark, a permit pursuant to the provisions of part 325 of the Natural Resources and Environmental Protection Act (MCL 324.32501 et seq.) shall be obtained for the shore protection structure.
- 4) The permanent structure shall be a minimum of 30 feet from the shore protection structure. If the bluff or dune is unstable due to height, slope, wind erosion, or groundwater seepage, Pere Marquette Charter Township, with input from the Michigan Department of Environment, Great Lakes and Energy, may require a setback of more than 30 feet or an engineered bluff stabilization plan, or both. In areas of steep slopes greater than 18 percent, a greater setback may be necessary to provide access for maintenance equipment and a safe building site.

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5) If the application is for a large permanent structure, the zoning board of appeals shall require compliance with both of the following provisions:

- i. The establishment of an escrow account to maintain the approved shore protection structure or bluff stabilization, or both. The amount required in the escrow account shall be reasonable and based on the project design.
- ii. Notice in the disclosure statement or deed that a portion of the required setback distance has been waived.

6) The proposed permanent structure meets the requirements of other applicable state laws, including but not limited to the provisions of part 353 of the Natural Resources and Environmental Protection Act (MCL 324.35301 et seq.).

c) Modification of the required setback distance. A person who can document with acceptable engineering studies an annual recession rate which differs from the Michigan Department of Environment, Great Lakes and Energy recession rate data may be granted a modification of the minimum setback requirement by the zoning board of appeals. Prior to any modification of the minimum setback requirement, the applicant's engineering studies shall be sent to the Michigan Department of Environment, Great Lakes and Energy, who shall report to the zoning board of appeals on the accuracy of the applicant's studies. The zoning board of appeals shall act only upon request for modification of the setback requirement after a determination has been made on the validity of the applicant's data and only after the zoning board of appeals has determined that such modification would not violate the spirit and intent of this ordinance.

19.08 NONCONFORMING STRUCTURES.

The following regulations concerning nonconforming structures in the High Risk Erosion Overlay Zone shall be in addition to the provisions of Article 31 and shall control where inconsistent with Article 31:

a) Additions to nonconforming structures. The zoning board of appeals may approve an addition to a nonconforming structure if the following conditions are met:

- 1) The nonconforming structure is a small permanent structure.
- 2) The addition for which approval is sought, and all previous additions to the permanent structure, shall not add total floor space exceeding 25 percent of the foundation size of the permanent structure which size shall be the size of the foundation at the time the permanent structure first becomes nonconforming.
- 3) The addition shall not be located less than 30 feet landward of the then existing bluff line and the proposed addition does not reduce the permanent structure's distance from the bluff line.

b) Restoration of nonconforming structures. A nonconforming structure which has been damaged or has deteriorated may be repaired or restored to its prior condition if the cost of repair is not more than 60 percent of the structure's replacement value.

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If the cost of repairing or restoring the nonconforming structure is greater than 60 percent, but less than 100 percent of its replacement cost, approval for the repairs or restoration shall require approval of the zoning board of appeals and compliance with the following conditions:

- 1) The nonconforming structure was damaged or became deteriorated by reasons other than shoreline erosion.
- 2) The nonconforming structure, if repaired or rebuilt at the existing location, would not be less than 20 feet landward from the then-existing bluff line.
- 3) The reconstructed or repaired structure shall be a readily removable structure.

If the cost of repair is more than 100 percent of the replacement cost or if the structure is declared a total loss for insurance purposes, the provisions for new permanent structures shall apply.

19.09 DEFINITIONS.

As used in this section, the following terms shall have the following meanings and requirements:

a) Accessory structure means a separate building or other structure, the use of which is incidental to that of the main building or use of the land. The structure shall not have a permanent foundation and shall be constructed to be readily moveable or removed.

b) Bluff line means the line which is the edge or crest of the elevated segment of the shoreline above the beach which normally has a precipitous front inclining steeply on the lakeward side. Where there is no precipitous front indicating the bluff line, the line of continuous perennial vegetation may be considered the bluff line (see graphic attached to this section).

c) Large permanent structure means any permanent structure other than a small permanent structure.

d) Nonconforming structure means a permanent structure which does not conform to the required setback distance at the time of designation or which became nonconforming due to erosion or became nonconforming due to a change in the required setback distance. Permanent structures that are constructed in violation of these rules shall not be considered to be nonconforming structures.

e) Nonpermanent structure means a structure which is not the principal structure on a lot, which does not have a permanent foundation, which has less than 225 square feet of enclosed space and which is not used for residential dwelling purposes. By way of example but not limitation, the term includes tents and accessory buildings for picnicking or storage. The terms also includes travel trailers and recreational vehicles parked or stored on a lot.

f) Permanent structure means any one of the following structures that is erected, installed, or moved on a parcel of property:

- 1) A residential building.
- 2) A commercial building.
- 3) An industrial building.
- 4) An institutional building.
- 5) A mobile home.

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- 6) Accessory and related buildings.
- 7) A swimming pool or deck that has a roof or walls.
- 8) Septic systems.
- 9) Tile fields.
- 10) Other waste-handling facilities.

A permanent structure shall be considered small if it has a foundation size of 3,500 square feet or less and less than five individual living units. All other permanent structures shall be considered large. The term does not include recreation vehicles, travel trailers, swimming pools, or decks constructed on pilings if the pool or deck does not have a roof or walls. The term also does not include separate accessory structures which have less than 225 square feet, which are used for picnicking or storing of recreation or lawn equipment, and which are constructed in a manner that facilitates easy removal. The accessory structure shall not have a permanent foundation and shall not be used as a residential facility.

g) Readily moveable structure means a small permanent structure (with a total square footage greater than 225 square feet and with a first-floor foundation size less than 3,500 square feet) which is designed, sited and constructed to accomplish relocation at a reasonable cost relative to other structures of the same size and construction. Access to and from the site shall be of sufficient width and acceptable grade to permit the structure to be relocated.

1) New construction and installations shall meet the following criteria to be considered readily moveable structures:

- i. The buildings shall be on pilings, a basement or crawl space. Except as noted below, a slab-on-grade foundation does not meet this criterion.
- ii. Above-grade walls shall be either stud wall or solid log construction. Above-grade walls that are constructed of masonry, including stone walls, and concrete poured or concrete block walls do not meet this criterion.

2) Existing permanent structures shall be considered readily moveable structures if the cost of relocation landward of the required setback distance is not more than 25 percent of the replacement cost of the structure (including any added cost of land) or if the existing structure meets the criteria for new construction in this subdivision. A one- or two-car garage which is bolted to a slab foundation, which does not have living space within the structure, and which does not have plumbing or interior walls shall be considered a readily moveable structure if it meets the remainder of the requirements specified in this subdivision. Septic systems, tile fields, or other waste-handling facilities are not readily moveable structures.

h) Required setback distance means the least distance a permanent structure can be constructed from the bluff line without a special exception.

i) Setback line means the line which is the required setback distance landward of the bluff line and which is the lakeward limit for the construction of permanent structures.

j) Small permanent structure means a structure having a foundation of 3,500 square feet or less and less than five dwelling units.

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k) Substandard parcel means a lot or parcel of record or a lot or parcel which is described in a land contract or deed that is executed and delivered before the designation of a high-risk erosion area and which does not have adequate depth to provide the required setback distance from the bluff line for a permanent structure.

The term also means those lots which are legally created after the designation of a high risk erosion area and which have sufficient depth to meet setback requirements for permanent structures, but which subsequently become substandard due to erosion processes or become substandard due to a change in the required setback distance.

l) Zoning administration. It shall be the responsibility of the zoning administrator to maintain permanent and current records of this ordinance, including all permits applied for, issued and denied, maintain the zoning maps and property descriptions, delineate affected areas, maintain records of application for variances, appeals and decisions on these appeals by the zoning board of appeals. In the case of denying a zoning permit, the zoning administrator shall inform the property owner of the right to appeal and the conditions under which an appeal will be considered. The zoning administrator shall further inform the zoning board of appeals and the department of environmental quality at the time an appeal is filed. Written notice of an exception request from the minimum required setback distance shall be given to the department of environmental quality at least 14 days prior to the hearing before the zoning board of appeals.

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ARTICLE 20

CRITICAL DUNE OVERLAY DISTRICT

20.01 PURPOSE.

The provisions of this section apply to the Dune Overlay Zone. In keeping with the findings of the Michigan Legislature and the authority granted to local government in part 353 of the Natural Resources and Environmental Protection Act (MCL 324.35301 et seq.), the Charter Township of Pere Marquette hereby declares that:

- a) The critical dune areas of Pere Marquette Charter Township are a unique, irreplaceable, and fragile resource that provides significant recreational, economic, scientific, geological, scenic, botanical, educational, agricultural, and ecological benefits to the people of this community, to the state, to the people from other states and countries who visit this resource.
- b) The benefits derived from alteration, industrial, residential, commercial, agricultural, silvicultural, and the recreational use of critical dune areas shall occur only when the protection of the environment and the ecology of the critical dune areas for the benefit of the present and future generations is assured.
- c) The following regulations embodied in this Dune Overlay Zone are adopted as the minimum measures necessary to achieve these ends.

20.02 DEFINITIONS

The following terms used in this Dune Overlay Zone shall have the meaning defined below:

- a) *Accessibility measures* means a circulation path and at least 1 entrance on a circulation path complying with American national standards institute chapter 4 standards for accessible routes, from a road or easement serving the property, and at the option of the applicant, from a sidewalk, a driveway, or a garage. Accessibility measures do not include driveways.
- b) *Buildable area* means an area of a lot or parcel which is of sufficient size and character so as to support a principal structure and a reasonable use of the property without being in violation of any local, state or federal environmental or other regulations adopted to protect the public health, safety or general welfare. Buildable area shall not include any wetland, 100-year floodplain, high risk erosion area, drainage way, lake or similar natural feature which poses an impediment or hazard to safe construction or use of property without sufficient upland property to meet ordinance requirements. Contour changes to create a buildable area are permissible only if not contrary to this ordinance, or any other state or federal statute.
- c) *Contour change* includes any grading, filling, digging, or excavating that significantly alters the physical characteristic of a critical dune area, except that which is involved in sand dune mining.

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d) *Crest* means the line at which the first lakeward-facing slope of a critical dune ridge breaks to a slope of less than 18 percent for a distance of at least 20 feet, if the areal extent where this break occurs is greater than one-tenth acre in size.

e) *Critical dune area* means that geographic area designated in the "Atlas of Critical Dune Areas" dated February 1989, that was prepared by the department and any other such locally designated sand dune areas included on the Pere Marquette Charter Township Zoning Maps.

f) *Department* means the Michigan Department of Environment, Great Lakes and Energy (EGLE)

g) *Driveway* means a privately owned, constructed, and maintained vehicular access from a road or easement serving the property to the principal building or accessory buildings, that is paved, graveled, or otherwise improved for vehicular access, 16 feet wide or narrower in the sole discretion of the applicant or owner, and may include, in the sole discretion of the applicant or owner, a shared driveway.

h) *Foredune* means one or more low linear dune ridges that are parallel and adjacent to the shoreline of a Great Lake and are rarely greater than 20 feet in height. The lakeward face of a foredune is often gently sloping and may be vegetated with dune grasses and low shrub vegetation or may have an exposed sand face.

i) *Person* means an individual, partnership, firm, corporation, association, local unit of government, or other political subdivision of the state, or a state or state agency.

j) *Restabilization* means restoration of the natural contours of a critical dune to the extent practicable, and the restoration of the protective vegetative cover of a critical dune through the establishment of indigenous vegetation, and the placement of snow fencing or other temporary sand trapping measures for the purpose of preventing erosion, drifting, and slumping of sand.

k) *Sand dune area* means that area designated by the department which includes those geomorphic features composed primarily of sand, whether windblown or of other origin and which lies within two miles of the ordinary high-water mark on a Great Lake as defined in section 32502 of the Natural Resources and Environmental Protection Act (MCL 324.32502) and includes critical dune areas.

l) *Sand dune mining* means the removal of sand from sand dune areas for commercial or industrial purposes, or both. The removal of sand from sand dune areas in volumes of less than 3,000 tons is not sand dune mining if the removal is a 1-time occurrence and the reason the sand is removed is not for the direct use for an industrial or commercial purpose. However, the removal of any volume of sand that is not sand dune mining within a critical dune area as defined in part 353 of the Natural Resources and Environmental Protection Act (MCL 324.35301 et seq.), is subject to the critical dune protection provisions of part 353. The department as defined herein may authorize in writing the removal of more than 3,000 tons of sand without a sand dune mining permit issued pursuant to section 63704 for a purpose related to protecting an occupied dwelling or other structure from property damage related to the migration of sand or the instability of sand. This removal may be for more than 1 occurrence, but a written authorization from the department is required for each removal.

m) *Special use project* means any of the following:

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- 1) A proposed use in a critical dune area for an industrial or commercial purpose regardless of the size of the site.
- 2) A multifamily use of more than three acres.
- 3) A multifamily use of three acres or less if the density of use is greater than four individual residences per acre.
- 4) A proposed use in a critical dune area, regardless of size of the use, that the planning commission determines would damage or destroy features of archaeological or historical significance.

n) *Use* means a developmental, silvicultural, or recreational activity done or caused to be done by a person that significantly alters the physical characteristic of a critical dune area or a contour change done or caused to be done by a person, but does not include sand dune mining.

20.03 AREA AFFECTED.

a) The provisions of this Dune Overlay Zone apply to all lands so depicted on the zoning maps which are a part of this ordinance. These lands include the entire critical dune area as designated by the Michigan Department of Environment, Great Lakes and Energy pursuant to part 353 of the Natural Resources and Environmental Protection Act (MCL 324.35301 et seq.), and to such other lands as locally designated and depicted thereon. Locally designated sand dunes together with dunes designated under such part shall be known as critical dune areas for the purpose of this ordinance. Lands that are within 250 feet of a critical dune area, that are determined by the planning commission to be essential to the hydrology, ecology, topography, or integrity of a critical dune area shall also receive all the protection afforded to critical dunes in this overlay zone, even if not so depicted on the Pere Marquette Charter Township Zoning Maps.

b) This overlay zone establishes regulations which apply in addition to those of the underlying district. Lot size, density, and front and side setbacks shall be as established in the underlying district, except that lots created after the effective date of this section shall be at least 250 feet in width and shall have a ratio of lot width to lot depth of not less than 1:5. Where the provisions of this zone conflict with those of the underlying district, the provisions of the Dune Overlay Zone shall supersede.

20.04 LOTS AFFECTED.

After the effective date of this section, June 1, 1994:

- a) No subdivision or condominium development shall occur within the Dune Overlay Zone except in compliance with the minimum standards of this ordinance and after review and approval of a site plan and other documents as required herein.
- b) No structure shall be constructed, reconstructed, altered, or relocated except in strict compliance with the requirements of this ordinance.
- c) No use which is in existence as of the effective date of this article shall be expanded, except in strict compliance with the minimum standards of this ordinance.

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d) No lot size shall be created, split or otherwise permitted to be used without sufficient width, or depth or buildable area to accommodate a principal structure, as established by the minimum standards of this ordinance.

20.05 APPLICATION REQUIREMENTS.

a) All applications for permits for the use of a critical dune area shall include in writing a showing or evidence:

1) The county enforcing agency designated pursuant to part 91 of the Natural Resources and Environmental Protection Act (MCL 324.9101 et seq.) finds that the project is in compliance with such part and any applicable soil erosion and sedimentation control ordinance that is in effect in Pere Marquette Charter Township.

2) A proposed sewage treatment or disposal system on the site has been approved by the county health department or the department.

3) Assurances that the cutting and removing of trees and other vegetation will be performed according to the "forestry management guidelines for Michigan" prepared by the Society of American Foresters in 1987 as revised in 2010 and may include a program to provide mitigation for the removal of trees or vegetation by providing assurances that the applicant will plant on the site more trees and other vegetation site than were removed by the proposed use.

4) Except as otherwise provided in this subsection (5), a site plan that contains data required by this section and subsection (7) of this section concerning the physical development of the site and extent of disruption of the site by the proposed development. The planning commission may consult with the soil conservation district in determining the required data.

5) An environmental assessment that comports with subsection (b) of this section for a special use project. An environmental impact statement containing the information in subsection (c) of this section may be required by the planning commission if the additional information is considered necessary or helpful in reaching a decision on a permit application for a special use project.

6) The planning commission may require that the applicant supply contour maps of the site with five-foot intervals at or near any proposed structure or roadway or the commission may consult with local soil conservation district regarding the degree of slope.

7) The payment of any required fees for processing and/or professional review of the submitted site plan.

8) The decision of Pere Marquette Charter Township to grant a permit under this Section shall be in writing and shall be based upon evidence that would meet the standards in section 75 of the administrative procedures' act of 1969, 1969 PA 306, MCL 24.275.

9) If a permit for a proposed use within a critical dune area is denied, the landowner may request a revaluation of the affected property for assessment purposes to determine its fair market value under the restriction.

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b) When an environmental assessment is required, it shall include the following information concerning the site of the proposed use:

- 1) The name and address of the applicant.
- 2) A description of the applicant's proprietary interest in the site.
- 3) The name, address, and professional qualifications of the person preparing the environmental assessment and his or her opinion as to whether the proposed development of the site is consistent with protecting features of environmental sensitivity and archaeological or historical significance that may be located on the site.
- 4) The description and purpose of the proposed use.
- 5) The location of existing utilities and drainage ways.
- 6) The general location and approximate dimensions of proposed structures.
- 7) Major proposed change of land forms such as new lakes, terracing, or excavating.
- 8) Sketches showing the scale, character, and relationship of structures, streets, or driveways, and open space.
- 9) Approximate location and type of proposed drainage, water, and sewage facilities.
- 10) Legal description of property.
- 11) A physical description of the site, including its dominant characteristics, its vegetative character, its present use, and other relevant information.
- 12) A natural hazards review consisting of a list of natural hazards such as periodic flooding, poor soil bearing conditions, and any other hazards peculiar to the site.
- 13). An erosion review showing how erosion control will be achieved and illustrating plans or programs that may be required by any existing soil erosion and sedimentation ordinance.

c) When an environmental impact statement is required, it shall include all of the following:

- 1) The name and address of the applicant.
- 2) A description of the applicant's proprietary interest in the site of the proposed use.
- 3) The name, address, and professional qualifications of the proposed professional design team members, including the designation of the person responsible for the preparation of the environmental impact statement.
- 4) The description and purpose of the proposed use.
- 5) Six copies and one reproducible transparency of a schematic use plan of the proposed use showing the general location of the proposed use and major existing physical and natural features on the site, including, but not limited to, watercourses, rock outcropping, wetlands, and wooded areas.
- 6) The location of the existing utilities and drainage ways.

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- 7) The location and notation of public streets, parks, and railroad and utility rights-of-way within or adjacent to the proposed use.
- 8) The general location and dimensions of proposed streets, driveways, sidewalks, pedestrian ways, trails, off-street parking, and loading areas.
- 9) The general location and approximate dimensions of proposed structures.
- 10) Major proposed change of land forms such as new lakes, terracing, or excavating.
- 11) Approximate existing and proposed contours and drainage patterns, showing at least five-foot contour intervals.
- 12) Sketches showing the scale, character, and relationship of structures, streets, or driveways, and open space.
- 13) Approximate location and type of proposed drainage, water and sewage treatment and disposal facilities.
- 14) A legal description of the property.
- 15) An aerial photo and contour map showing the development site in relation to the surrounding area.
- 16) A description of the physical site, including its dominant characteristics, its vegetative character, its present use, and other relevant information.
- 17) A soil review giving a short descriptive summary of the soil types found on the site and whether the soil permits the use of septic tanks or requires central sewer. The review may be based on the "Unified Soil Classification System" as adopted by the United States Government Corps of Engineers and Bureau of Reclamation, dated January 1952, or the natural cooperative soil survey classification system, and the standards for the development prospects that have been offered for each portion of the site.
- 18) A natural hazards review consisting of a list of natural hazards such as periodic flooding, poor soil bearing conditions, and any other hazards peculiar to the site.
- 19) A substrata review including a descriptive summary of the various geologic bedrock formations underlying the site, including the identification of known aquifers, the approximate depths of the aquifers and, if being tapped for use, the principal uses to be made of these waters, including irrigation, domestic water supply, and industrial usage.
- 20) An erosion review showing how erosion control will be achieved, and illustrating plans or programs that may be required by any existing soil erosion and sedimentation ordinance.
- 21) At a minimum, plans for compliance with all of the following standards shall be required for construction and post-construction periods:
 - i. Surface drainage designs and structures are erosion proof through control of the direction, volume, and velocities of drainage patterns. These patterns shall promote natural vegetation growth that are included in the design in order that drainage waters may be impeded in their flow and percolation encouraged.

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- ii. The design shall include trash collection devices when handling street and parking drainage to contain solid waste and trash.
 - iii. Watercourse designs, control volumes, and velocities of water to prevent bottom and bank erosion. In particular, changes of direction shall guard against undercutting of banks.
 - iv. If vegetation has been removed or has not been able to occur on surface areas such as infill zones, it shall be the duty of the developer to stabilize and control the impacted surface areas to prevent wind erosion and the blowing of surface material through the planting of grasses, and windbreaks and other similar barriers.
- d) At the discretion of a prospective applicant, a request for preliminary review of a proposed use in a critical dune area may be filed with the zoning administrator. Only the data requirements of subsection (a) of this section for a site plan and the required fee must be submitted along with a completed request form. Following a meeting with the developer and the planning commission to review the preliminary site plan, the planning commission shall inform the prospective applicant of the changes to the site plan and any additional information that is needed in order to meet the ordinance requirements. Thereafter, the prospective applicant may proceed with a formal application that meets all the requirements of subsection (a) of this section and have said application processed in the standard fashion.
- e) The applicant shall stake the location of all proposed structures and uses prior to a site inspection to check the measurements on a proposed site plan.

20.06 PERMITTED AND PROHIBITED USES.

- a) The following uses are not permitted in a critical dune area:
- 1) The disposal of sewage on-site unless the standards of applicable sanitary codes are met or exceeded.
 - 2) A use that does not comply with the minimum setback requirements required by rules that are promulgated under part 323 of the Natural Resources and Environmental Protection Act (MCL 324.32301 et seq.).
 - 3) A surface drilling operation that is utilized for the purpose of exploring for or producing hydrocarbons or natural brine or for the disposal of the waste or by-products of the operation, except that those that are lawfully in existence at a site as of July 5, 1989, may be continued, completed, restored, or substituted upon approval of the director of the Department of Natural Resources.
 - 4) Production facilities regulated pursuant to the part 625 of the Natural Resources and Environmental Protection Act (MCL 324.62501 et seq.), and part 615 of the Natural Resources and Environmental Protection Act (MCL 324.61501 et seq.); except that those that are lawfully in existence at a site as of July 5, 1989, may be continued, completed, restored, or substituted upon approval of the director of the Department of Natural Resources.

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5) Construction of a dwelling or other permanent building shall not be authorized on the first lakeward facing slope of a critical dune area or foredune except on a lot of record that was recorded prior to July 5, 1989 that does not have sufficient buildable area landward of the crest to construct the dwelling or other permanent building as proposed. The proposed construction, to the greatest extent possible, shall be placed in the location that has the least impact on the critical dune area.

b) Unless a variance is granted pursuant to subsection 20.13 of this section, the following uses are not permitted in a critical dune area:

1) A structure and access to a structure on a slope within a critical dune area that is 18 to 25 percent to less than 33 1/3 percent unless the structure and access to the structure is in accordance with plans prepared for the site by a registered professional architect or a licensed professional engineer and the plans provide for the disposal of stormwaters without serious soil erosion and without sedimentation of any stream or other body of water. Prior to approval of the plan, the planning commission shall consult with the local soil conservation district and the applicant.

2) A use on a slope within a critical dune area that is greater than 33 1/3 percent.

3) A use involving a contour change that is likely to increase erosion, decrease stability, or is more extensive than required to implement a use for which a permit is requested.

4) Silvicultural practices, as described in the "Voluntary Forest Management Guidelines for Michigan," prepared by the Society of American Foresters as revised in 2010, that are likely to increase erosion, decrease stability, or are more extensive than required to implement a use for which a permit is requested.

5) A use that involves a vegetation removal that is likely to increase erosion, decrease stability, or is more extensive than required to implement a use for which a permit is requested.

6) A use that will significantly damage the public interest on the privately-owned land, or, if the land is publicly owned, the public interest in the publicly owned land, by significant and unreasonable depletion or degradation of any of the following:

i. The diversity of the critical dune areas within Pere Marquette Charter Township.

ii.) The quality of the critical dune areas within Pere Marquette Charter Township.

iii. The functions of the critical dune areas within Pere Marquette Charter Township

7) A use that is a structure shall be constructed behind the crest of the first landward ridge of a critical dune that is not a foredune. However, if construction occurs within 100 feet measured landward from the crest of the first landward ridge that is not a foredune, the applicant shall demonstrate that the proposed use meets all of the following requirements:

i. The structure and access to the structure shall be in accordance with a site plan prepared for the site by a registered professional architect or a licensed professional engineer and the site plan shall provide for the disposal of storm waters without serious soil erosion and without sedimentation of any stream or other body of water.

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- ii. The use will not destabilize the critical dune area.
- iii. Contour changes and vegetative removal are limited to that essential to siting the structure.
- iv. Access to the structure is from the landward side of the dune.
- v. The dune is re-stabilized with indigenous vegetation.
- vi. Construction techniques and methods are employed that mitigate the impact on the dune.
- vii. The crest of the dune is not reduced in elevation.

20.07 SITE PLAN REVIEW.

a) Reviewing a site plan submitted along with all the application information required in subsection 20.05 of this section, the planning commission shall:

- 1) Ensure that the requirements of the zoning ordinance have been met and the plan is consistent with existing laws.
- 2) Determine whether the advice or assistance of the soil conservation district will be helpful in reviewing a site plan, and if so, to so seek it.
- 3) Recommend alterations of a proposed development to minimize adverse effects anticipated if the development is approved and to ensure compliance with all applicable state and local requirements.

b) An adequate performance guarantee in the form of a surety bond may be collected to ensure that any earth change or construction activities carried out in violation of approved permits or an approved site plan can be corrected to the maximum extent. Said guarantee shall be refunded when the work for which it was collected has been satisfactorily completed.

20.08 USE STANDARDS.

a) Any lot or parcel which in whole or part, falls within the Dune Overlay Zone shall not be used except upon receipt of a zoning permit from the zoning administrator. No zoning permit shall be issued for use of lands within this zone until a site plan meeting the requirements of this section and those of Article 23 have been met. The planning commission will make the final determination as to whether or not these standards have been met and shall exercise its lawful discretion in all cases in favor of protection of the critical dune area.

b) No grading or clearing of a site shall be done prior to issuance of a zoning permit as required in this ordinance.

c) Additionally, the following requirements shall be met:

- 1) Each individual lot of a subdivision shall require a separate zoning permit as required in this section unless the project is constructed by a single developer under a PUD approval; then one permit for each phase of construction may be issued.

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2) Filling and grading shall be permitted only according to an approved site plan and approved soil erosion and sedimentation control permit. Sand and bluff stabilization shall be required during all phases of construction and post-construction as specified by standards set forth in part 91 of the Natural Resources and Environmental Protection Act (MCL 324.9101 et seq.) and rules adopted thereunder. Such a revegetation program shall be designed to return open sand areas, both pre-existing and newly created, to a stable condition, to be initiated as soon as possible following construction and include the measures to be taken for the maintenance of revegetated areas for at least two years after the time of planting. No fill shall be placed in an established floodplain or wetland. No fill shall cause surface water to collect or to run off onto adjoining lands contrary to existing natural drainage.

3) No soil, sand, gravel or other materials shall be permitted to be removed from lands within this zone except as may be authorized by a permit granted under part 353 of the Natural Resources and Environmental Protection Act (MCL 324.35301 et seq.); or as may be incidental to the establishment of a permitted use approved by a site plan under the terms of this article.

4) All shore protection devices shall conform with state and federal permit requirements.

5) Clustering of dwelling units is strongly encouraged provided it is done so as to minimize the impacts of uses on the dune. The requirements of Article 21 may be followed for any use in the Dune Overlay Zone, however, all setback and other requirements of this article still apply.

20.09 DRIVEWAYS

Notwithstanding section 20.06(b) or any other provisions of this Ordinance, the construction, improvement, and maintenance of a driveway shall be permitted for any dwelling or other permanent building permitted in a critical dune area, including a dwelling or other permanent building that are lawful nonconforming uses subject to the following:

a) A driveway shall be permitted either to the principal building, or in the sole discretion of the applicant, to an accessory building, under the provisions of this section. Additional driveways, if any, shall meet the applicable requirements of this ordinance. The development of a plan for a driveway should include consideration of the use of retaining walls, bridges, or similar measures, if feasible, to minimize the impact of the driveway, parking, and turnaround areas, and the consideration of alternative locations on the same lot of record.

b) Driveways on slopes steeper than 1-foot vertical rise in a 4-foot horizontal plane, but not steeper than a 1-foot rise in a 3-foot horizontal plane, shall be in accordance with a site plan submitted with the permit application and prepared for the site by a registered professional architect or licensed professional engineer. The site plan shall include:

- 1) Storm water drainage that provides for disposal of storm water without serious erosion.
- 2) Methods for controlling erosion from wind and water, and

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3) Re-stabilization by design elements including vegetation, cut-and-fill, bridges, traverses, and other such elements as are required in the judgment of the architect or engineer to meet these requirements.

c) Driveways on slopes steeper than 1-foot vertical rise in a 3-foot horizontal plane shall be in accordance with a site plan submitted with the permit application and prepared for the site by a licensed professional engineer. The site plan shall include:

1) Storm water drainage that provides for disposal of storm water without serious erosion.

2) Methods for controlling erosion from wind and water.

3) Re-stabilization by design elements including vegetation, cut-and-fill, bridges, traverses, and such other elements as are required in the judgment of the engineer to meet these requirements. The engineer shall certify under seal that the driveway is not likely to increase erosion or decrease stability.

d) Temporary construction access for all construction, including new construction, renovation, repairs, rebuilding, or replacement, and repair, improvement, or replacement of septic tanks and systems, shall be allowed for any use allowed in a critical dune area for which a driveway is not already installed by the owner, subject only to the requirements that the temporary access shall not involve a contour change or vegetation removal that increases erosion or decreases stability except as can be re-stabilized upon completion of the construction. The temporary access shall be maintained in stable condition, and restabilization shall be commenced promptly upon completion of the construction.

20.10 ACCESSIBILITY MEASURES

Notwithstanding section 20.06(b) or any other provisions of this Ordinance, the construction, improvement, and maintenance of accessibility measures shall be permitted for any dwelling or other permanent building permitted in a critical dune area, including a dwelling or other permanent building that are lawful nonconforming uses subject to the following:

a) Accessibility measures on slopes steeper than 1-foot vertical rise in a 4-foot horizontal plane, but not steeper than a 1-foot rise in a 3-foot horizontal plane, shall be in accordance with a site plan submitted with the permit application and prepared for the site by a registered professional architect or licensed professional engineer. The site plan shall include:

1) Storm water drainage that provides for disposal of storm water without serious erosion.

2) Methods for controlling erosion from wind and water, and

3) Re-stabilization by design elements including vegetation, cut-and-fill, bridges, traverses, and other such elements as are required in the judgment of the architect or engineer to meet these requirements.

b) Accessibility measures on slopes steeper than 1-foot vertical rise in a 3-foot horizontal plane shall be in accordance with a site plan submitted with the permit application and prepared for the site by a licensed professional engineer. The site plan shall include:

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- 1) Storm water drainage that provides for disposal of storm water without serious erosion.
- 2) Methods for controlling erosion from wind and water.
- 3) Re-stabilization by design elements including vegetation, cut-and-fill, bridges, traverses, and such other elements as are required in the judgment of the engineer to meet these requirements. The engineer shall certify under seal that the accessibility measures are not likely to increase erosion or decrease stability.

20.11 UTILITIES

- a) A use needed to obtain or maintain a permit or license that is required by law to continue operating an electrical generating facility that is in existence on July 5, 1989 shall not be prohibited under this Ordinance.
- b) A use needed to maintain, repair, or replace existing utility lines, pipelines, or other utility facilities within a critical dune area that were in existence on July 5, 1989, or were constructed in accordance with a zoning permit is exempt from this Ordinance if the maintenance, repair, or replacement is completed in compliance with all of the following:

- 1) Vehicles shall not be driven on slopes greater than 1-foot vertical rise in a 3-foot horizontal plane.
- 2) All disturbed areas shall be immediately stabilized and revegetated with native vegetation following completion of work to prevent erosion.
- 3) Any removal of wood vegetation shall be done in a manner to assure that any adverse effect on the dune will be minimized and will not significantly alter the physical characteristics or stability of the dune.
- 4) To accomplish replacement of a utility pole, the new pole shall be placed adjacent to the existing pole, and the existing pole shall be removed by cutting at ground level.
- 5) In the case of repair of underground utility wires, the repair shall be limited to minimal excavation necessary to replace the wires by plowing, small trench excavation, or directional boring. Replacement of wires on slopes steeper than 1-foot vertical rise in a 4-foot horizontal plane shall be limited to installation by plowing or directional boring only.
- 6) In the case of repair or replacement of underground pipelines, directional boring shall be utilized, and if excavation is necessary to access and bore the pipeline, the excavation area shall be located on slopes 1-foot vertical rise in a 4-foot horizontal plane or less.

20.12 CONDITIONAL USE PROJECT REVIEW PROCEDURES.

- a) Any proposed conditional use project shall be reviewed and a recommendation for approval, approval with conditions or denial made by the planning commission pursuant to the conditional land use procedures of Article 24 of this ordinance.

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b) Prior to issuing a permit allowing a conditional use project within a critical dune area, the planning commission shall submit the special use project application and site plan and their proposed decision to the Michigan Department of Environment, Great Lakes and Energy, Water Resources Division. The department shall have 30 days to review the site plan and may affirm, modify, or reverse the proposed decision of the planning commission.

20.13 NONCONFORMING USES.

a) The lawful use of land or a structure, as existing and lawful within a critical dune area at the time of the adoption of this overlay zone, may be continued although the use of that land or structure does not conform to the provisions of this overlay zone. The continuance, completion, restoration, reconstruction, extension, or substitution of existing nonconforming uses of land or a structure may continue consistent with the nonconforming use requirements of this ordinance. See Article 31(a).

b) A structure or use located in a critical dune area that is destroyed by fire, other than arson for which the owner is found to be responsible, or an act of nature, except for erosion, may be rebuilt or replaced if the structure or use was lawful at the time it was constructed or commenced and the structure does not exceed in size or scope that which was destroyed and does not vary from its prior use.

20.14 VARIANCES.

The Board of Appeals may grant a variance from the requirements of this overlay zone if a practical difficulty will occur to the owner of the property if the variance is not granted. The procedural requirements of Article 31 should be adhered to. A variance shall be subject to the following limitations:

a) A variance shall not be granted from a setback requirement of this article unless the property for which the variance is requested is one of the following:

- 1) A nonconforming lot of record that is recorded prior to July 5, 1989, and that becomes nonconforming due to the operation of part 353 of the Natural Resources and Environmental Protection Act (MCL 324.35301 et seq.) or this zoning ordinance.
- 2) A lot legally created after July 5, 1989, that later becomes nonconforming due to natural shoreline erosion.
- 3) Property on which the base of the first landward critical dune of at least 20 feet in height, that is not a foredune, is located at least 500 feet inland from the first foredune crest or line of vegetation on the property. However, the setback shall be a minimum of 200 feet measured from the foredune crest or line of vegetation.

20.15 PENALTIES.

In addition to the penalty provisions of this ordinance, the provisions of section 35310 of the Natural Resources and Environmental Protection Act (MCL 324.35310) shall apply in the event of any violation. Pursuant to subsection (4) of said section, a court may impose on a person who violates any provision of this Dune Overlay Zone, or a provision of a permit issued hereunder, a civil fine of not more than \$5,000.00 for each day of violation, or order a violator to pay the full

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cost of re-stabilization of a critical dune area or other natural resource that is damaged or destroyed as a result of a violation, or both.

20.16 ZONING ADMINISTRATOR; LIMITED JURISDICTION.

In those cases where the applicant seeks to add to an existing structure or erect a structure as an accessory use to a principal use (structure) already on an affected lot as described in subsection (d) of this section, inclusive, the zoning administrator may approve a site plan and issue such permits as are required, provided, that the applicant otherwise fully complies with all of the provisions of this ordinance and all other applicable ordinances of the township.

20.17 SEVERABILITY

Should any section or provision of this Article 20 be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of this Section as a whole, or any part thereof.

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ARTICLE 21

PUD PLANNED UNIT DEVELOPMENT DISTRICT

21.01 PURPOSE.

The purpose of Planned Unit Development regulations is to encourage and allow more creative and imaginative design of land developments than is possible under district zoning regulations. Planned Unit Developments are intended to allow substantial flexibility in planning and designing a project. This flexibility often accrues in the form of relief from compliance with conventional zoning ordinance site and design requirements. Ideally, this flexibility results in a development that is better planned, that contains more amenities, and ultimately a development that is more desirable to live in than one produced in accordance with typical zoning ordinance and subdivision controls.

Through proper planning and design, each Planned Unit Development should include features which promote and comply with the following objectives:

- a) To allow a mix of uses, structures, facilities, housing types and open space in a manner compatible with existing and planned uses on nearby properties;
- b) To allow for the design of developments that achieve better utilization of land than is possible through strict application of standard zoning and subdivision controls;
- c) To encourage land development that, to the greatest extent possible, preserves natural vegetation, respects natural topographic conditions, and does not adversely affect wetlands, flood plains, the natural drainage pattern, and other natural site features;
- d) To promote the efficient use of land resulting in networks of utilities, streets and other infrastructure features that maximize the allocation of fiscal and natural resources.
- e) To promote further creativity in design and construction techniques;
- f) To provide for the regulation of legal land uses not otherwise authorized within this Ordinance;
- g) To provide for single or mixed-use developments which respect the goals and objectives of the Pere Marquette Charter Township Comprehensive Plan.

21.02 AUTHORIZATION

- a) A PUD zoning district may be approved by the Township Board, (the Board) following a recommendation from the Planning Commission, in any location within the Township in accordance with the procedures, regulations, and standards of this chapter.
- b) The approval of a PUD rezoning application shall require an amendment of the zoning ordinance and zoning map. An approval granted under this chapter shall constitute part of the zoning ordinance.

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21.03 QUALIFYING CONDITIONS.

- a) The area proposed for rezoning to PUD shall consist of a minimum of three contiguous acres although the Township Board following a recommendation from the Planning Commission may approve a PUD with less acreage if the Township Board determines that the intent of the PUD district will nevertheless be achieved.
- b) The proposed development shall be under unified ownership or control such that there is one person, group of persons, or legal entity having responsibility for the completion and ongoing maintenance of the development in compliance with this chapter. This requirement for unified ownership or control shall not prohibit a transfer of ownership or control, so long as there is still unified ownership or control of and for the development as required by this chapter.

21.04 PERMITTED USES.

The use or uses of land permitted within a PUD shall be in accordance with the uses allowed for that zoning district recommended by the current Comprehensive Plan of Pere Marquette Charter Township for the parcel or parcels requested for PUD rezoning. However, the Township Board after receiving a recommendation from the Planning Commission may permit other land uses not otherwise permitted in that zoning district recommended by the Comprehensive Plan if, in the opinion of the Board, the other uses; complement and are compatible with the permitted uses; are not the primary use of the property; are compatible with nearby existing and permitted land uses; and meet the intent of the PUD chapter and the intent of the Comprehensive Plan.

21.05 MODIFICATION OF DEVELOPMENT STANDARDS FOR ALL USES.

The lot area, lot width, building height, setback and yard requirements, general provisions, signs landscaping and screening requirements, lighting and parking regulations contained in this Article which would apply for the zoning district in which the uses or uses proposed are normally allowed and which would be the most restrictive for the uses proposed shall be met except that the Board, following a recommendation from the Planning Commission, may increase, decrease, or otherwise modify these regulations, as may be requested by the applicant, in order to achieve the objectives of this chapter. Other criteria which shall be used in making these determinations shall include the following:

- a) Whether the modification requested will result in a project that better satisfies the intent and objectives of this chapter;
- b) Whether the modification is compatible with adjacent existing and future land uses and will not significantly adversely affect the use and enjoyment of nearby property;
- c) Whether the modification will result in the preservation of existing vegetation or other natural features on site;
- d) Whether the modification is necessary due to topography, natural features, or other unusual aspects of the site;
- e) Whether the modification will improve or at least not impede emergency vehicle and personnel access;

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- f) Whether the modification will improve or at least not impede adequate pedestrian circulation; and
- g) Whether the modification will result in traffic or other safety hazards, visual blight, distraction, or clutter, or a detriment to the public health, safety, or general welfare.

21.06 OPEN SPACE REQUIREMENTS

PUDs shall maintain dedicated open space (“open space”) in compliance with this section.

a) Areas which do not constitute dedicated open space:

- 1) Public or private road rights-of-ways;
- 2) Golf courses;
- 3) Easements for overhead utility lines;
- 4) Areas within platted lots, site condominium units, or metes and bounds parcels occupied or to be occupied by a building or structure not permitted to be located in open space;
- 5) Off-street parking areas;
- 6) Detention and retention ponds created to serve the project;
- 7) 50% of the area of wetlands, creeks, streams, existing ponds or lakes, or other bodies of water;
- 8) 50% of the area of floodplains and 50% of areas of slopes of more than 20%; or
- 9) Open space which is not contiguous to the proposed PUD.

b) Standards for dedicated open space in residential PUDs. The following standards shall apply to the dedicated open space required in PUDs which devote all or a portion of land to residential uses.

- 1) The PUD shall provide and maintain a minimum of 20% of the gross site acreage as preserved dedicated open space in accordance with the standards of this section. The planning commission may consider a PUD with a lesser amount of open space if it is clear that the proposed PUD substantially provides for the intent of a PUD as stated in this section.
- 2) The open space may include a recreational trail, picnic area, children’s play area, community building, or any other substantially similar use as determined by the planning commission. These uses, however, shall not utilize more than 50% of the dedicated open space.
- 3) Open space areas are encouraged to be linked with any adjacent open spaces, public parks bicycle paths, or pedestrian paths.
- 4) The open space shall be available for all residents of the development, if any, subject to reasonable rules and regulations and shall be reasonably accessible to the residents of the open space development. Safe and convenient pedestrian access points to the open space from the interior of the open space shall be provided.
- 5) If the land contains a lake, stream, or other body of water, the planning commission may require that a portion of the open space around the body of water.

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6) Open space shall be located to preserve significant natural resources, natural features, scenic or wooded conditions, bodies of water, and wetlands.

7) Grading in open space areas shall be kept to a minimum.

c) Standards for dedicated open space in non-residential PUDs. The following standards shall apply to the dedicated open space requirements in PUDs which include only non-residential uses.

1) The PUD shall provide and maintain open space in a form which serves as an outdoor visual and functional community amenity, designated to contribute to the attractiveness and social function of the PUD, as approved by the planning commission.

2) The open space may include outdoor dining areas, benches or other areas for sitting, plazas, fountains, sculptures, pavilions, gazebo's, lawn or landscaped areas which contribute to the attractiveness of the site or which may be used for passive or active use, and similar uses or elements which contribute to social interaction or the aesthetics of the project as determined by the planning commission.

3) The planning commission shall determine if the dedicated open space proposed by the applicant is appropriate for the type and size of the non-residential use based on the intent of this section. The planning commission shall have the discretion to modify the proposed dedicated space as needed to meet the intent of this section.

4) The dedicated open space shall be maintained by the owner or operator of the development so that it sustains its original appearance and function, which shall be indicated in the agreement required by section 21.06(d) below.

d) Open space agreement. The applicant shall provide an open space preservation and maintenance agreement to the Township Board. Said agreement shall be binding on all successors and future owners in title of the land containing the dedicated open space. This provision shall not prohibit a transfer of ownership or control, provided notice of such transfer is provided to the Township and the land use continues as approved in the PUD plan or the PUD plan is amended to allow the use. The agreement must be acceptable to the Board and may consist of a recorded deed restriction, covenants that run perpetually with the land, or a conservation easement established according to the Michigan Conservation and Historic Preservation Act, Public Act 197 of 1980 as amended. The agreement may be included as part of a PUD agreement provided for in section (n) of this chapter. The agreement must:

1) Indicate the proposed permitted use(s) of the open space;

2) List the parties who have an ownership interest in the open space, including all of the residents of the PUD who, by virtue of an association or other similar entity, shall at all times maintain an ownership interest in the dedicated open space;

3) Require that the open space be maintained by parties who have an ownership interest in the dedicated open space; and

4) Provide standards for scheduled maintenance of the open space, including periodic removal of underbrush to reduce fire hazard and the necessary pruning and harvesting of trees and new plantings.

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21.07 DETERMINATION OF NUMBER OF DWELLINGS IN RESIDENTIAL PUDS

For PUDs which will devote all or a portion of the site to residential use the following requirements shall apply in addition to the requirements of subsection (e) of this section:

- a) An area which is requested for rezoning to PUD shall only be developed in accordance with the density allowed by the zoning district as recommended by the Comprehensive Plan. The permitted number of dwellings for the proposed PUD area shall be based on the density recommendation as set forth in the following density table.
- b) If the land requested for PUD rezoning contains more than one Comprehensive Plan land use recommendation, the number of dwellings allowed for each Comprehensive Plan area shall be computed separately using the formula below to determine the number of dwellings permitted for the entire site. The type and placement of the dwellings proposed, however, shall be subject to the approval of the Board following a recommendation from the Planning Commission during the review of the PUD site plan.
- c) The Board, following a recommendation from the Planning Commission, may choose to allow fewer dwellings than permitted by the density table if, in the opinion of the Board, a reduction in the number of dwellings proposed would better achieve the intent and objectives of the PUD district.

Density Table		
Master Plan Category	Zoning District	Maximum Average Density
Agriculture & Agricultural Residential	A-1 A/R	1 dwelling unit /Acre
LDR, Low Density Residential	R-1	2.9 dwelling units/acre
MDR, Medium Density Residential	R-2	3.63 dwelling units/acre for single & two-family dwellings: 10.89 dwelling units /acre for multi-family dwellings

d) Formula to determine number of dwellings. The number of dwellings which may be constructed within a PUD shall be determined as follows.

- 1) Determine gross site area. The gross site area may include road right-of-way if included in the legal description of the parcel.
- 2) Subtract one-half of unbuildable areas such as wetlands, floodplains, and slopes over 20%.
- 3) Subtract acreage devoted to non-residential uses.

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4) The resulting acreage is the net development acreage, which is then multiplied by the maximum average density from the density table to determine the number of dwelling units permitted. For example, the net development acreage for an LDR area would be multiplied by 2.9 dwelling units per acre.

5) If the area proposed for PUD zoning is not master planned for a specific residential density, the density and number of dwellings permitted shall be determined by the Board following a recommendation by the planning commission.

In making this determination, the Board shall take into consideration the density recommended for the surrounding lands, the nature of the existing land uses nearby, the type and number of dwellings proposed by the applicant and the intent and objectives of this section.

e) Wetland determination. The determination of the existence of wetlands and floodplain areas on a parcel shall be demonstrated to the satisfaction of the planning commission through a written determination by the Michigan Department of Environment, Great Lakes and Energy or by an analysis performed by a professional biologist, ecologist, environmental engineer, or similar professional person deemed acceptable to the planning commission.

f) Additional dwellings. Additional dwellings above what is allowed by subsection (d) of this section above may be permitted at the discretion of the Board following a recommendation by the Planning Commission if the development provides additional amenities or preserves additional open space which would result in a significant recognizable benefit to the Township and residents of the PUD. Items which could be added to a PUD so it may be eligible for consideration for additional dwelling units shall include one or more of the following items as well as similar items:

- 1) Provision of recreational facilities such as playground areas with play equipment, ball fields, golf course, bike path, man-made lake, and community building or similar recreation facility;
- 2) Additional landscaping to preserve or enhance the view along the roadway;
- 3) Enhancement of existing wetlands, subject to applicable regulations;
- 4) Provision of additional unique open space or mature stands of trees, which would be of recognizable benefit to Township residents;
- 5) Provision of additional open space off the PUD site but within the Township which would be of benefit to the Township by adding land for recreational opportunities, adding land to existing Township owned land or allowing for the preservation of land along the Pere Marquette River or other natural area;
- 6) If additional dwelling units are to be permitted, the maximum number of dwelling units shall be determined by multiplying the maximum average density permitted in the density table by the gross site acreage of the site instead of the net development acreage excluding only the acreage devoted to any nonresidential uses. In no case shall the number of dwelling units exceed what is permitted by this subsection.

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21.08 PROCEDURES

a) Pre-application conference (Step 1).

Before submitting a PUD application, the applicant shall meet with the zoning administrator who may also request the attendance of the Township planner or engineer. The applicant may provide a conceptual drawing or other information about the development or property. The purpose of this meeting is for the zoning administrator to explain the PUD site plan design, development requirements, and review process to the applicant in order to assist the applicant in preparing a site plan for review by the Planning Commission. No formal action will be taken at a pre-application conference nor will any statements made at the pre-application conference be considered legally binding commitments from the Township.

b) PUD Application (Step 2).

Following the pre-application conference, the applicant shall apply for rezoning to the zoning administrator. The application shall include the following:

- 1) A completed application form;
- 2) Payment of a fee, including an escrow amount, as established by the Township Board;
- 3) A narrative statement describing:
 - i. The objectives of the PUD and how it relates to the intent of the PUD district, as described in section (a) of this chapter;
 - ii. The relationship of the PUD to the master plan;
 - iii. Any phases of development and approximate time frame for each phase;
 - iv. Proposed deed restrictions, covenants, or similar legal instruments to be used within the PUD;
 - v) Anticipated start and completion of construction;
 - vi) Location, type, and size of areas to be dedicated open space; and
 - vii) All modifications from the zoning regulations which would otherwise be applicable to the uses and structures proposed in the without this PUD.
- 4) A site plan which shall contain the information required by Article 23 herein.

c) Initial review at the Planning Commission work session (Step 3).

- 1) The Planning Commission shall review the application for rezoning and the site plan at a work session and make recommendations to the applicant regarding the PUD.
- 2) The applicant shall revise the PUD site plan as recommended by the Planning Commission and resubmit it to the zoning administrator in advance of the public hearing so as to allow sufficient time for review of the plan.

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d) Planning Commission review of PUD site plan and Rezoning (Step 4).

- 1) The Planning Commission shall schedule a public hearing on the application for rezoning and PUD site plan. The notice of the public hearing shall follow the procedures in Section 33.11 of the zoning ordinance. Following the hearing, the Planning Commission shall then make a recommendation to the Township Board regarding the application for rezoning and PUD site plan. The Planning Commission shall base its recommendation on compliance with the standards of Section 21.09 herein.
- 2) The applicant shall make any revisions to the PUD site plan as required by the Planning Commission and submit the revised PUD site plan to the Township Board no later than 12 months after the Planning Commission's hearing on the Final PUD site plan.

e) Township Board review (Step 5).

- 1) After receiving the recommendation of the Planning Commission, the Board shall conduct a public hearing on the rezoning application and PUD site plan. The notice of the public hearing shall follow the procedures of Section 33.11 herein.
- 2) The Township Board shall then make its findings based on the PUD standards for approval in Section 21.09 of this chapter. Upon a determination that a proposed PUD meets such standards, the Township Board may approve the PUD rezoning and PUD site plan.
- 3) The Township Board may impose reasonable conditions upon its approval of the PUD. Such conditions may include conditions necessary to ensure that public services and facilities affected by the PUD will be capable of accommodating increased service and facility loads caused by the property use or activity, protect the natural environment and conserve natural resources and energy, ensure compatibility with adjacent uses of land, and promote the use of property in a socially and economically desirable manner. Conditions imposed shall meet all of plan the following requirements:
 - i. They shall be designed to protect natural resources, the health, safety, and welfare and the social and economic well-being of those who will use the proposed project under consideration, residents, and landowners immediately adjacent to the proposed PUD and the community as a whole;
 - ii. They shall be related to the valid exercise of the police power and the purposes, which are affected by the proposed PUD;
 - iii. They shall be necessary to meet the intent and purpose of this chapter, related to the standards established in the ordinance for the proposed PUD under consideration, and necessary to ensure compliance with those standards; and
 - iv. Those which are imposed with respect to the approval of a PUD shall be recorded in the record of the approval action and shall remain unchanged except upon the mutual consent of the Township Board and the property owner.
 - v. The decision of the Township Board shall not be appealed to the zoning board of appeals.

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21.09 STANDARDS FOR APPROVAL FOR PUD APPROVAL.

A PUD shall be approved only if it complies with each of the following standards:

- a) The proposed PUD complies with all qualifying conditions of Section 21.03 of this chapter;
- b) The uses to be conducted within the proposed PUD are substantially consistent with the Comprehensive Plan, are based on the design of the PUD and the conditions imposed, or are appropriate for the proposed location, and they are not likely to lead to significant changes contained in the master plan for the area where the PUD is to be located;
- c) The proposed PUD is compatible with surrounding uses of land, the natural environment, and the capacities of public services and facilities affected by the development;
- d) The proposed uses within the PUD will not possess conditions or effects that would be injurious to the public health, safety, or welfare of the community;
- e) The proposed PUD is consistent with the spirit and intent of the PUD district, as described in section (a) of this chapter and represents an opportunity for improved or innovative development for the community that could not be achieved through conventional zoning; and

21.10 PUD AGREEMENT.

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

21.11 TIME LIMIT FOR AN APPROVED PUD DISTRICT.

- a) Each development shall be under construction within 12 months after the date of approval of the PUD final development plan, except as noted in this section.
- b) The Township Board may grant one extension of up to an additional 12-month period if the applicant applies for such extension prior to the date of the expiration of the PUD or PUD phase and provided that:
 - 1) The applicant presents reasonable evidence that said development has encountered unforeseen difficulties beyond the control of the applicant; and
 - 2) The PUD requirements and standards, including those of the zoning ordinance and master plan that are reasonably related to said development, have not changed.

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- c) Should the time limits provided in Section 21.11 of this chapter expire, the PUD site plan approval(s) shall be voided. This does not include any phases that may have received final PUD approval.
- d) Should the PUD district be voided, the Township Board shall have the right to rezone the property back to the prior zoning classification(s) or to rezone it to any other zoning classification(s) in accordance with the requirements for rezoning of this chapter.
- e) If the property is not rezoned, the subject property shall remain zoned as a PUD, but the PUD plans previously approved shall still be voided. In order to utilize the property as a PUD, an applicant shall submit plans for PUD site plan approval as stated in this chapter, but PUD rezoning by the Township Board shall not be required. However, a public hearing shall be held by both the Planning Commission and Township Board as part of the PUD site plan review process.

21.12 CHANGES TO AN APPROVED PUD.

Changes to an approved PUD shall be permitted only under the following circumstances:

- a) The holder of an approved PUD final development plan shall notify the zoning administrator of any desired change to the approved PUD.
- b) The zoning administrator may administratively approve minor changes, which are those which will not alter the basic design and character of the PUD or any conditions which were imposed as part of the original approval. Minor changes shall include but not be limited to the following:
- 1) Reduction of the size of any building or sign;
 - 2) Movement of buildings or signs by no more than ten feet;
 - 3) Landscaping approved in the final development plan that is replaced by similar landscaping to an equal or greater extent;
 - 4) Internal rearrangement of a parking lot, which does not affect the number of parking spaces or alter access locations or design; and
 - 5) Changes required or requested by the Township, Mason County, or other state or federal regulatory agency in order to conform to other laws or regulations or for reasons of public safety.
- c) A proposed change, other than a minor change as determined by the zoning administrator, shall be submitted as a major amendment to the PUD and shall be processed in the same manner as an original PUD application as set forth in this chapter except that the PUD zoning shall remain in place.
- d) The zoning administrator may refer any decision regarding any proposed change to an approved PUD site plan to the Planning Commission for review and approval (regardless of whether the change may qualify as a minor change). In deciding whether a change is a minor change, or whether to refer a change to the Planning Commission for approval, the zoning administrator may consult with the chairperson of the Planning Commission.

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ARTICLE 22

MHP MOBILE HOME PARK DISTRICT

22.01 PURPOSE

The purpose of this district is to allow for the establishment of mobile home parks and related accessory uses. A mobile home park within this zoning district shall comply with all applicable procedures and requirements of the Mobile Home Commission Act, being Act 96 of 1987, as amended, and the Michigan Administrative Code.

A mobile home park established within this district shall be subject to the site plan review procedures of Chapter 23 herein and any other applicable regulations of this Zoning Ordinance. Public sanitary sewer and water facilities shall be provided for a mobile home park.

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ARTICLE 23

SITE PLAN REVIEW

23.01 PURPOSE

The purposes of Site Plan Review are: to determine compliance with the provisions of this ordinance; to promote the orderly development of the Township; to prevent the depreciation of land value through uses or structures which do not give proper attention to siting or area protection; to provide consultation and cooperation between the applicant and the Township Planning Commission in order that applicants may accomplish their objectives in the utilization of their land within the regulations of this zoning ordinance; and to achieve the purposes of the Pere Marquette Charter Township Master Plan.

23.02 SITE PLAN REVIEW REQUIRED

A site plan shall be submitted for review and approval prior to the issuance of a building permit as follows. Single and two-family dwellings and farm buildings as defined herein shall not require site plan review.

a) Planning Commission Review:

- 1) Any new principal commercial, office, industrial, business, or institutional use.
- 2) Multi-family dwellings
- 3) An expansion of an existing building or structure which exceeds 25 percent of the gross floor area of the existing building.
- 4) An expansion of a building or use or a change in the use of a building for which additional parking spaces are required by the Zoning Ordinance or an expansion of an existing parking lot to add more parking spaces.
- 5) Conditional uses. See Section 24.06 for expansions of existing conditional uses.
- 6) Planned unit developments.
- 7) Site condominiums.
- 8) Manufactured housing communities
- 9) All other uses requiring Planning Commission site plan approval as required by this Ordinance.

b) Zoning Administrator Review: The following uses shall be reviewed by the Zoning Administrator, or the Township Planner and Township Engineer if deemed necessary by the Zoning Administrator, to ensure compliance with the site plan review requirements. The Zoning Administrator may also refer such uses to the Planning Commission to be reviewed in accordance with the requirements of this Ordinance.

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- 1) An expansion of an existing building which does not exceed 25 percent of the gross floor area of the existing use;
- 2) Construction of a non-residential building which is accessory to the principal use or building.
- 3) Structure-mounted wind energy turbines (SMWET) and small wind energy turbines (SWET) PER Article 29.
- 4) Zoning Administrator review is required for all other site plans not reviewed by the Planning Commission for which a building permit is required by this Ordinance or for building, structure or land alterations or improvements which require approval by the Zoning Administrator.

Review of site plans by the Zoning Administrator shall be in accordance with the same procedures, requirements and standards used by the Planning Commission except the number of site plan copies and submittal date shall be subject to the discretion of the Zoning Administrator.

The Zoning Administrator may waive specific site plan review submittal information if it is determined that such information is not necessary to ensure compliance with the site plan review requirements.

23.03 APPLICATION

a) An application for site plan review along with nine sets of the site plan shall be submitted to the Zoning Administrator in accordance with the submittal schedule established by the Planning Commission along with the fee as set by the Township Board. The application shall at a minimum contain the following information:

- 1) The applicant's name, address and phone number.
- 2) Proof that the applicant is the owner of the property or has a legal or financial interest in the property, such as a purchase agreement.
- 3) The name, address and phone number of the owner(s) of record if different than the applicant.
- 4) The address of the property.
- 5) Legal description of the property.
- 6) Current zoning.
- 7) Project description.
- 8) Size of the parcel in acres.
- 9) Signature of the applicant and owner of the property.
- 10) An electronic version of the site plan and all other items submitted in a form acceptable to the Township.
- 11) Approximate commencement and completion dates for the proposed development.

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23.04 SITE PLAN CONTENTS & PROCEDURES

a) Upon receipt of the site plans and application, a copy shall be forwarded to the appropriate Township Departments, Planner, Engineer and others as necessary for review and subsequent report to the Planning Commission.

b) Final site plans shall be drawn at a scale of not more than one inch to 50 feet and shall contain the following information unless specifically waived by the Planning Commission or Zoning Administrator:

1) A title block containing:

- i. The project name, if any.
- ii. The name, address and telephone number of the applicant.
- iii. The name, address, telephone number and seal of the professional individual who prepared the site plan.
- iv. The dates of submission and any revisions to the site plan.

2) Property Information

- i. Scale and north arrow.
- ii. A locational diagram of the site drawn to scale.
- iii. A legal description of the subject property.
- iv. The net acreage (minus right-of-way) and total acreage.
- v. The land uses and zoning classifications of adjoining parcels and parcels located across the street.
- vi. The location and dimensions of proposed and/or existing lot lines.
- vii. All required building setbacks.
- viii. Existing contour lines at two feet intervals on site and for a distance of 50 feet on adjacent parcels.
- ix. The location and elevations of existing water courses and water bodies, including county drains and manmade surface drainage ways, 100-year floodplains and all wetlands and other unbuildable areas.
- x. The location and type of significant vegetation to be removed and preserved.

3) Building and Land Use Information

- i. The location and set backs of all on-site existing and proposed buildings, as well as the length, width, height, total square footage and use of each building and distances between structures and lot lines.
- ii. The location and use of all off-site buildings or structures within 100 feet of the

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subject property.

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- iii. Building façade elevations for all sides of all proposed buildings, drawn at an appropriate scale and descriptions of exterior building materials and colors
- iv. The proposed location of accessory structures, buildings and uses and of the method of screening, where applicable.

4) Streets, Vehicle and Pedestrian Circulation, and Parking

- i. The name, location, dimensions and associated right-of-way of all existing and proposed on-site and adjoining off-site streets (public or private,); typical details of curbs, location, dimensions; any deceleration lanes; radii and grade of all access points into the site.
- ii. All driveways within 100 feet of the site on both sides of the street.
- iii. The location, dimensions, surface, and number of all parking spaces and unloading areas, including information on proposed curbing, barrier-free access design, and circulation aisles. Calculations to demonstrate compliance with the required number of parking spaces shall be provided. *See Article 27.*
- iv. The location and design of all existing and proposed sidewalks, walkways, bicycle paths and areas for public use.

5) Lighting

- i. The location, height and type of fixture of all exterior lights including building lights. Lights fixtures shall be fully shielded and placed to avoid light spillover onto adjacent properties and roadways. *See Sec.3.22.*
- ii. A photometric plan showing areas of illumination at all property lines measured in foot candles.

6) Utilities, Grading, Stormwater Management

- i. The location, design, sizing and easements related to all existing and proposed utility systems to be located on the site, above and below ground, including, but not limited to:
 - a. electric,
 - b. telephone and gas distribution lines;
 - c. water mains;
 - d. fire hydrants and well sites;
 - e. storm sewer lines;
 - f. sanitary sewer lines;
 - g. septic systems, if applicable;
 - h. retention and detention areas (inverts, hydrants, drainage flow patterns, locations of manholes and catch basins, calculations for size of storm

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drainage facilities, underground tanks and transportation pipelines county drains on site.)

- ii. The grading plan showing finished contours at a minimum interval of two feet and correlated with existing contours so as to clearly indicate cut and fill required.
- iii. The description of measures to be taken to control soil erosion and sedimentation during and after completion of grading and construction operations.

7) Landscaping See Article 26.

- i. Number of plants, type, size, location and spacing for:
 - a. Greenbelts;
 - b. Front yard along all streets abutting property;
 - c. Parking lots including landscaping within islands and on perimeter;
- ii. Computations for all required landscaping;
- iii. Berms, walls and fences.

8) Waste Disposal / Hazardous Materials

- a. The location, size and specifications for screening of all trash receptacles and other solid waste disposal facilities. See Sec.26.08.
- b. Location and specifications for any existing or proposed above or below ground storage facilities for any chemicals, salts, flammable materials, or hazardous materials as well as any containment structures or safety clear zone that confines the adverse effects of a hazardous material operation required by state or federal agencies.

9) Residential Developments

- i. The total number of residential units proposed by type (e.g., 1-bedroom units, 2-bedroom units, etc.)
- ii. Floor area per unit for each type of unit.
- iii. Proposed density calculations for the completed project (dwelling units per acre.)
- iv. Location, use, dimensions and elevations of all common or community buildings
- v. Garage and/or carport locations and details
- vi. Location, type, size and dimensions of the recreation and open space areas.

10) Signs

The location, size and specifications of all signs including signs to be placed on buildings. A separate sign permit is required. See Article 28.

11) The Planning Commission may require written statements relative to the effects of the proposed use on the traffic capacity and safety of existing streets, and the proposed development's impact on schools, existing utilities, the environment and natural features. In

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addition, the Commission may request additional studies, graphics or other written materials from the applicant in order to assist in determining the appropriateness of the site plan.

23.05 FINAL SITE PLAN APPROVAL

- a) The Planning Commission shall review the final site plan according to the standards for site plan review as contained in this chapter and any other applicable regulations of this Ordinance. Based on these standards and regulations, the Commission shall approve, deny, or approve with conditions the final site plan.
- b) If approved, the applicant shall revise the site plan as necessary and submit the final site plan to the Zoning Administrator, Planner, Engineer, Township Departments or others as necessary to ensure that all revisions as required by the Planning Commission have been made.
- c) Upon approval of the final site plan, three copies of this plan shall be approved, dated, and signed by the Zoning Administrator. One copy of the approved plan shall be retained by the applicant, one shall be retained by the Building Inspector as part of the building permit review process, and one copy shall be kept by the Zoning Administrator.

23.06 STANDARDS FOR APPROVAL

Prior to approving a site plan, the Planning Commission shall require that the following standards be satisfied: If these standards and the other requirements noted in this section or in other Township ordinances are met, the site plan shall be approved.

- a) The site shall be designed to minimize or avoid conflicting and unsafe vehicle turning movements on the site and at driveways serving the site; avoid driver sight obstructions and provide for vehicle access between adjoining parcels where practicable. The site plan must comply with the Access Management Regulations of this Ordinance as well as the requirements of the Mason County Road Commission and Michigan Department of Transportation as applicable.
- b) The site plan shall comply with the requirements of the Township Water and Sewer Department.
- c) Landscaping, landscape buffers and greenbelts shall be provided and designed in accordance with the landscape provisions of this Ordinance.
- d) The landscape shall be preserved in its natural state, insofar as practical, by removing only those areas of vegetation or by making those alterations to the topography which are reasonably necessary to develop the site in accordance with the requirements of this Ordinance. Measures shall be taken to minimize negative impact on woodlots, sand dunes and water features of the site.
- e) Areas of natural drainage such as swales, wetlands, ponds, or swamps shall be protected and preserved insofar as practical in their natural state to provide areas for natural habitat, preserve drainage patterns and maintain the natural characteristics of the land.

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- f) The site plan shall provide reasonable visual and sound privacy for all dwelling units located therein. Fences, walks, barriers, and landscaping shall be used, as appropriate, to accomplish these purposes.
- g) All buildings or groups of buildings shall be arranged so as to permit necessary emergency vehicle access as requested by the Township Fire Department.
- h) A pedestrian circulation system which is separated from the vehicular circulation system may be required. In order to ensure public safety, special pedestrian measures, such as crosswalks, crossing signals and other such facilities may be required in the vicinity of schools, playgrounds, shopping areas and other uses which generate a considerable amount of pedestrian traffic.
- i) The arrangement of public or common ways for vehicular and pedestrian circulation shall be connected to existing or planned streets and pedestrian or bicycle pathways in the area. Streets and drives which are part of an existing or planned street pattern serving adjacent development shall be of a condition appropriate to the traffic volume and type of traffic they will carry.
- j) Appropriate measure shall be taken to ensure that removal of surface waters will not adversely affect neighboring properties or the public storm water drainage system. Provisions shall be made to accommodate storm water, prevent erosion particularly during construction, and prevent the formation of dust.
- k) The use of detention/retention ponds may be required. Surface water on all paved areas shall be collected at intervals so that it will not obstruct the flow of vehicular or pedestrian traffic or create puddles in paved areas. Catch basins may be required to contain oil filters or traps to prevent contaminants from being discharged to the natural drainage system.
- l) Exterior lighting fixtures shall be full-cut-off design and arranged so that illumination is deflected downward and away from adjacent properties and so that it does not interfere with the vision of the motorist along adjacent streets. Flashing or intermittent lights shall not be permitted. Excessive lighting of buildings or structures shall be minimized to reduce light pollution.
- The maximum foot candle measurement at the property line shall not exceed 0.5-foot candle if the adjacent property is zoned or planned for residential use or 1.0-foot candle if the adjacent property is zoned or planned for non -residential use or abuts a public right-of-way. Measurement standards of the Illuminating Engineering Society of North America (IES) shall be used.
- m) Loading and unloading areas and outside storage areas including areas for the storage of trash, which face or are visible from residential districts or public thoroughfares, shall be screened by a vertical screen consisting of structural or plant materials not less than six feet in height. The finished side of any wall, fence or other screen shall face adjacent properties.
- n) Site plans shall conform to all applicable requirements of county, state and federal statutes and approval may be conditioned on the applicant receiving necessary county, state and federal permits before final site plan approval or any occupancy permit is granted.

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o) Sites which include storage of hazardous materials or waste, fuels, salt, or chemicals shall be designed to prevent spills and discharges of polluting materials to the surface of the ground, groundwater, and nearby water bodies.

23.07 CONDITIONS OF APPROVAL

a) As part of an approval to any site plan, the Planning Commission or Zoning Administrator, as applicable, may impose any additional conditions or limitations as in its judgment may be necessary for protection of the public interest. Such conditions shall be related to and ensure that the review standards of Section 23.06 are met. Any conditions imposed shall meet the following standards:

- 1) Will ensure that public services and facilities affected by the proposed land use or activity will be capable of accommodating increased service a facility loads caused by the land use or activity;
- 2) Will protect the natural environment and conserve natural resources and energy;
- 3) Will ensure compatibility with adjacent uses of land;
- 4) Will promote the use of land in a socially and economically desirable manner.

b) The Planning Commission shall have the authority to limit the number of driveways for a site, to require that parking lots on contiguous parcels be connected, that driveways for contiguous parcels be shared, and that opposite driveways be directly aligned.

c) Approval of a site plan, including conditions made as part of the approval, shall apply to the property described in the application, regardless of subsequent changes in ownership or control.

d) A record of conditions imposed shall be maintained by the Zoning Administrator. The conditions shall remain unchanged unless an amendment to the site plan is approved in accordance with this Ordinance.

e) A record of the decision of the Planning Commission, the reasons for the decision reached and any conditions attached to such decision shall be kept as a part of the minutes of the Planning Commission.

f) The Zoning Administrator may make periodic investigations of developments for which site plans have been approved.

g) Non-compliance with the requirements and conditions of the approved site plan shall be violations of this Ordinance.

23.08 TIME LIMIT FOR APPROVED SITE PLANS.

(a) A site plan approval granted pursuant to this article shall be valid for one year from the date of final approval. If substantial construction/progress has not commenced within the one year, the approval of site plan shall be void.

b) Upon written application, filed prior to the termination of the one-year review period, the Planning Commission or Zoning Administrator may authorize a single extension of the time limit for approval of a final site plan for a further period of not more than one year.

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Such extension shall only be granted based on evidence from the applicant that there is a likelihood of construction commencing within the one-year extension.

(c) The Planning Commission shall have the authority to revoke any site plan approval after the applicant has failed to comply with any of the applicable requirements in this article or any other applicable sections of this ordinance.

23.09 AMENDMENTS TO APPROVED SITE PLAN

a) Any person who has been granted site plan approval shall notify the Zoning Administrator of any proposed amendment to the approved site plan.

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

The following items shall be considered as minor changes:

- 1) Reduction of the size of any building and/or sign.
- 2) Movement of buildings and/or signs by no more than 10 feet.
- 3) Plantings approved in the site plan landscape plan being replaced by similar types of landscaping.
- 4) Changes in floor plans which do not alter the character of the use.
- 5) Internal rearrangement of a parking lot which does not affect the number of parking spaces or alter access locations or design.
- 6) Changes required or requested by the Township officials for safety reasons.
- 7) Changes which will preserve the natural features of the site without changing the basic site layout.
- 8) Other similar changes of a minor nature proposed to be made to the configuration, design, layout or topography of the site plan which are deemed by the Zoning Administrator to be not material or significant in relation to the entire site and which the Zoning Administrator determines would not have any significant adverse effect on adjacent or nearby lands or the public health.

The Zoning Administrator may refer any decision regarding any proposed change to an approved site plan to the Planning Commission for review and approval (regardless of whether the change may qualify as a minor change). In making a determination whether a change is a minor change, or whether to refer a change to the Planning Commission for approval, the Zoning Administrator may consult with the Chairperson of the Planning Commission.

c) Should the Zoning Administrator determine that the requested modification to the approved site plan is not minor, re-submission to the Planning Commission for an amendment shall be required and conducted in the same manner as an original application.

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23.10 IMPROVEMENTS; FINANCIAL GUARANTEES.

To ensure compliance with the zoning ordinance and any conditions imposed thereunder, the Planning Commission or Zoning Administrator, whichever approved the site plan, may require that a cash deposit, certified check, irrevocable bank letter of credit, or surety bond acceptable to the Township covering the estimated cost of the improvements associated with the use for which site plan approval is sought, be deposited with the Treasurer of the Township to ensure faithful completion of the improvements.

If a performance guarantee is required, the amount shall be determined by the Planning Commission or Zoning Administrator as applicable and shall be conditioned upon faithful compliance with all of the provisions and requirements of the approved site plan and construction and placement of all of the improvements therein.

In its discretion, the Planning Commission may reduce a proportionate share of the amount specified in a performance bond, letter of credit or other written assurance, based upon the percent or other portion of improvements completed, as verified by the Planning Commission or appropriate Township official. Furthermore, the Planning Commission may recommend to the Board the rebate or refund of a proportionate share of a cash bond.

23.11 EXPANSION OF EXISTING USE, STRUCTURE, OR BUILDING

It is recognized that land uses, buildings, and structures are existing which do not conform to the current regulations of this Ordinance and as such do not achieve the intended purposes of this Ordinance. When these uses, buildings, and structures are proposed to be expanded, enlarged, or increased in intensity so that a site plan review is required per Section 23.02 herein, the following regulations shall apply:

- a) The site development standards used in reviewing site plans shall be applied to existing uses, structures or buildings when they are affected by any expansions, enlargements or increases in intensity. These standards shall be applied if it is determined that as a result of such expansions, enlargements or increases in intensity, any of the following situations exist:
- 1) Existing stormwater drainage provisions on site are inadequate to protect nearby lakes, streams or creeks from runoff contaminants or to prevent drainage onto adjoining properties and do not substantially comply with the Mason County Stormwater Management Ordinance.
 - 2) There is insufficient on-site parking to satisfy current Zoning Ordinance requirements and/or a hard surface parking area is needed to reduce dust, and to reduce gravel and soil runoff into the public stormwater drainage system.
 - 3) Existing driveways may result in hazardous vehicle movements.
 - 4) Additional plantings are needed in order to comply with the intent of the landscape regulations or to replace trees and shrubs previously removed, or screening is needed in the form of fencing or landscaping to provide a buffer between uses, particularly to screen materials stored outside.
 - 5) Access to adjoining properties is inadequate and can be improved by way of parking lot connections or installation of service drives to improve traffic circulation and reduce

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the number of turning movements onto the public street system.

6) Safety for pedestrians can be improved and better emergency vehicle access can be provided.

7) Less bright lighting conditions are needed to reduce or eliminate nuisance lighting situations for drivers and nearby properties.

8) Screening of dumpsters is needed to improve the appearance of a site and reduce the likelihood of windblown trash.

9) Sidewalks are needed to improve pedestrian safety.

b) In determining how to apply the site plan review standards to address the above deficiencies found on a site, the Planning Commission or Zoning Administrator shall be guided by the following criteria:

1) Whether or not compliance would ensure safer on-site conditions, protect the natural environment, improve traffic circulation, achieve compatibility with adjacent land uses, promote the use of the land in a socially and economically desirable manner and generally accomplish the purposes of site plan review as described in this chapter.

2) The practicality of requiring complete compliance with the applicable regulations of this Ordinance based on the existing design, layout, and operation of the existing use and size of the site or if only partial compliance would be more practical.

3) Whether or not requiring compliance would have a negative impact on the character, safety, and welfare of the neighborhood or surrounding area

23.12 REQUIRED IMPROVEMENTS PRIOR TO ISSUANCE OF AN OCCUPANCY PERMIT.

a) In approving a site plan, the Planning Commission or Zoning Administrator, whichever first approved the site plan may, in addition to other matters, require that all or any part of the improvements, buildings or other elements approved be constructed and completed prior to the issuance of an occupancy permit.

b) In the event these buildings, structures, improvements and other elements are partially completed to a point where occupancy will not impair the health, safety and general welfare of all parties concerned, then the Building Inspector may grant an occupancy permit on such reasonable conditions relating to completion as the Planning Commission or Zoning Administrator shall establish. The Building Inspector may, at their discretion, decline to determine whether or not such occupancy permit should be granted, and, instead, refer the decision thereon to the Planning Commission.

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ARTICLE 24

CONDITIONAL USES

24.01 PURPOSE OF CONDITIONAL USES

Uses allowed only by conditional use permit have been identified as those which, because of their nature, are not necessarily appropriate at all locations throughout a zoning district, or are appropriate only if subject to conditions. The purpose of this chapter is to provide standards and procedures for reviewing requests for conditional uses, and for placing conditions upon such permits.

24.02 CONDITIONAL USE PROCEDURE

Application for a conditional use permit shall be submitted and processed under the following procedures:

a) An application shall be submitted to the Zoning Administrator on a form for that purpose. Each application shall be accompanied by the payment of a fee as determined by resolution of the Township Board. The application shall at a minimum contain the following information:

- 1) The applicant's name, address and phone number.
- 2) Proof that the applicant is the owner of the property or has a legal or financial interest in the property, such as a purchase agreement.
- 3) The name, address and phone number of the owner(s) of record if different than the applicant.
- 4) The address of the property.
- 5) Legal description of the property.
- 6) Current zoning.
- 7) Project description.
- 8) Size of the parcel in acres.
- 9) Signature of the applicant and owner of the property.
- 10) An electronic version of the site plan and all other items submitted in a form acceptable to the Township.

b) Site Plan Requirement. Applications for a conditional use permit shall also be accompanied by a site plan submitted in accordance with the requirements of Article 23 herein. The application materials shall then be forwarded to the Planning Commission.

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c) Additional Information. The Planning Commission may also require that the applicant provide additional information about the proposed use. Such information may include, but shall not be limited to, utility systems plan, traffic impact analysis, environmental impact statement, an economic analysis justifying the need for a proposed use or uses, impact on public utilities and services and effect on the public-school system.

d) Public Hearing. Prior to making a decision on a conditional use request, the Planning Commission shall hold a public hearing. Notice of the hearing shall be as required in Section 33 herein.

e) Review and decision by the Planning Commission. Following the public hearing, the Planning Commission shall approve, conditionally approve, or deny the request for the conditional use permit based upon the General Standards contained in Section 24.03 herein.

The decision shall be incorporated in the minutes or in a separate finding of facts statement containing the conclusions relative to the conditional use under consideration specifying the basis for the decision and any conditions imposed.

f) Effect of approval of request for conditional use permit. The conditional use permit shall become effective upon the approval of the Planning Commission and the execution of the conditional use permit documents by the applicant including any revisions to the site plan as required by the Planning Commission. Approval of the request for the conditional use permit shall authorize the Building Inspector to issue the building permit.

g) Effect of denial of request for conditional use permit. In the event that a request for a conditional use permit is denied wholly or in part by the Planning Commission, an application for a permit for the same conditional use shall not be resubmitted for a period of one year from the date of said order of denial, except on the grounds of new evidence or proof of changed conditions found to be valid by the Planning Commission.

24.03. STANDARDS FOR APPROVAL OF CONDITIONAL USES.

Any request for a conditional use permit must satisfy all of the following standards for approval as well as the specific standards for each use listed. Requests that are in compliance with the approval and specific standards, the conditions imposed, and other ordinance requirements, shall be approved.

a) The proposed use will comply with all conditional regulations as well as complying with all appropriate regulations applicable to the district.

b) The proposed use is in harmony with the purpose and intent of this ordinance.

c) The proposed use will not adversely affect the health, safety and welfare of the public and residents of the area and will not be detrimental to the use or development of adjacent properties or of the general neighborhood.

d) The proposed use will comply with all applicable laws, ordinances, and regulations of the township, local, state and federal governments.

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- e) The proposed use shall be designed, constructed, operated and maintained so as to be harmonious and appropriate in appearance with existing or intended character of the general vicinity and that such use will not change the essential character of the area in which it is proposed.
- f) The proposed use shall be served adequately by essential public facilities and services such as highways, streets, police, fire protection, drainage structures, refuse disposal, water and sewage facilities (where available).
- g) The proposed use will not involve uses, activities, processes, materials, and equipment or conditions of operation that will be detrimental to any persons, property, or general welfare by reason of excessive production of traffic, noise, smoke, fumes, glare, odors, or toxic material.

24.04 CONDITIONS OF APPROVAL.

The Planning Commission may impose reasonable conditions on the approval of a conditional use. Said conditions shall meet the following requirements:

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

24.05 EXPIRATION OF PERMIT

- a) A conditional use permit shall expire one year after it is granted, unless construction is complete or commencement of the use has substantially begun. The Planning Commission may, upon request by the applicant, extend the term of the conditional use by successive periods of up to one year each upon a finding that there have been no changed conditions in the area which would require reconsideration of the conditional use application or site plan.
- b) If a use authorized by a conditional use permit is established and subsequently ceases for a period of two consecutive years the conditional use permit shall be considered to be voided and the use shall not be re-established except in accordance with the procedures of Section 24.02 herein.

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The cessation of the conditional use activity shall be determined by the Zoning Administrator who shall base this determination on the following factors which shall include but are not limited to:

- 1) The establishment of a different use on the property;
- 2) Removal of any signs pertaining to the conditional use;
- 3) Removal, replacement or demolition of the building containing the conditional use;
- 4) Personal observation that the use has been vacated and other similar factors which would provide evidence of the cessation of the conditional use.

24.06 AMENDMENT TO AN APPROVED CONDITIONAL USE

Any person or agency owning or operating land for which a conditional use has been approved shall notify the Zoning Administrator of any proposed amendment to the approved use and site plan. Any proposed change to the conditions that were attached to the approval of the conditional use or any proposed change to the conditional use itself shall be reviewed by the Zoning Administrator who shall determine if the proposed changes constitute a major or minor change.

A major change is defined as a change in the conditions of approval or the conditional use which would substantially alter the intensity of the use of the property so as to call into question compliance with the conditional use approval standards of Section 24.03 herein.

Examples of a major change may include but are not limited to: a significant increase in the hours of operation, a significant expansion of the land area devoted to outdoor activity, a significant increase in the number of items displayed or stored outdoors, an increase in the intensity of the use which would significantly increase traffic volumes, a significant change in the number of parking spaces or major alteration of the on-site traffic circulation pattern, the addition of one or more driveways or a change in the conditions of approval which may result in a significant adverse impact on nearby residents or property.

In addition, a major change would also include expanding the land area that was approved for the existing conditional use or expanding the building containing the use if such expansion would increase the intensity of the use.

Any major change shall be considered in the same manner as set forth in Section 24.02 of this Ordinance.

Changes to an approved conditional use permit which are not major changes shall be considered as minor changes. A minor change to either the use or the site plan may be approved by the Zoning Administrator who shall notify the Planning Commission of the minor change and that such change does not substantially change the basic design or alter the conditions required for the use by the Commission. The Zoning Administrator may refer any minor change to the Planning Commission.

24.07 REVOCATION OF PERMIT

If a violation of any of the conditions or standards imposed on a conditional use is found to exist following inspection, the Zoning Administrator shall notify the owner of the premises of the conditional use and the Planning Commission that such violation exists and that the permit may be revoked within 30 days of such notification.

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If said violation is not corrected with 30 days, the Planning Commission may revoke the permit following a public hearing noticed in accordance with the requirements of Article 33 herein. Furthermore, such a violation is hereby declared to be a violation of the Zoning Ordinance, subject to all of the remedies and penalties provided for in this Ordinance.

24.08 EXISTING VIOLATIONS

A conditional use permit shall not be issued for a new use or a structure on property where any violation of this ordinance exists.

24.09 STANDARDS FOR SPECIFIC CONDITIONAL USES

The conditional uses in this section have particular characteristics for which specific standards have been formulated. These standards as well as the approval standards and dimensional standards must be complied with before approval may be granted.

24.10 CHURCHES, SYNAGOGUES, TEMPLES, AND OTHER SIMILAR FACILITIES TO BE USED FOR PUBLIC WORSHIP.

a) The following uses are permitted as accessory uses of any church facility provided they are located on the same parcel as the church facility:

- 1) Parsonage;
- 2) Convent or rectory;
- 3) Playgrounds;
- 4) Non-lighted athletic fields;
- 5) Other uses which the Zoning Administrator deems to be similar accessory uses.

b) The following uses may be conducted in conjunction with a church facility when located on the same parcel as the church facility and when specifically authorized as a conditional land use by the Planning Commission in accordance with the requirements of this Chapter 24.

- 1) Senior citizen community center;
- 2) Child and adult day care center;
- 3) School;
- 4) Food pantry and household goods bank;
- 5) Lighted athletic fields;
- 6) Indoor gym;
- 7) Temporary shelter for those persons displaced from their home;
- 8) Coffee and beverage bar offering such items for free or for sale which is open to the public at times other than when the church is conducting services;
- 9) Provision of meals for homeless or needy persons and services or programs designed to assist homeless or needy persons such as counseling, job skill training, life management, self-help, religious, or other programs.

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24.11 CLUBS AND LODGES.

- a) All activities shall be conducted within completely enclosed buildings, provided however, outdoor recreational activities may be allowed as an accessory use to the principal use.
- b) The minimum lot size shall be one-half acre with 100 feet of lot width.

24.12 CONVENIENCE STORES.

- a) The parcel containing the store shall be located only on a paved county highway or state trunk line.
- b) Outdoor display of store products is not permitted in the required front yard.
- c) If fuel for vehicles is sold no more than three fuel pumps shall be permitted. Each pump may contain up to two fuel nozzles.
- d) A maximum of two driveways may be allowed on the paved county highway or state trunk line.

24.13 HELIPORTS.

It is the purpose of this section to provide specific standards pursuant to locating heliports. These standards are to be considered in conjunction with the general standards required for the review and approval of all conditional uses. These standards are in addition to those required by the Federal Aviation Administration (FAA) and other federal or state agencies having regulatory authority over the placement and/or design of heliports. Should these standards conflict with those of the FAA or other regulatory agency, the more restrictive shall apply as permitted by state or federal statute. The following provisions apply to heliports:

- a) The landing pad and associated parking shall be constructed of a bituminous asphalt, or concrete surface properly drained to avoid surface runoff to adjoining properties.
- b) The landing pad shall be maintained free of dust, rock particles, or other debris in order to avoid the off-site fugitive emission of said materials while the pad is in use.
- c) A landscape buffer shall be placed between the landing pad and any adjoining parcel having a residential zoning classification. The buffer design shall be based on the following factors:
 - 1) Proximity (nearness) of the heliport to adjoining residential uses or districts.
 - 2) Anticipated impact of the heliport pursuant to frequency of landings and noise during use.
 - 3) Visual relationship of the heliport, and its use, to the adjoining residential uses or districts.
 - 4) Potential economic impact of the heliport, and its use, on adjacent residential uses or properties.

It shall be the intent of the landscape buffer to mitigate potential negative impacts associated with the above factors. The landscape buffer may consist of evergreen or deciduous trees and vegetation, landscaped berms, architectural features/fencing, or combinations thereof.

Pursuant to design of the buffer, the applicant shall assume that the potential for negative impacts increases as the distance between the pad and adjacent residential uses or districts decreases.

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It shall be the responsibility of the applicant to provide a landscape buffer design for review and approval by the Planning Commission. The design, if required by this subsection (3), shall be incorporated as part of the site plan required for submission to the Planning Commission. The landscape design shall indicate the location, type, and size of all landscape features.

- d) The heliport shall be designed to accommodate necessary emergency vehicles, including firefighting equipment.
- e) Fuel storage areas shall not be permitted within 300 feet of any residential uses or districts. All fuel storage facilities shall meet state and federal standards. Aboveground storage facilities shall be screened from view by adjacent properties. The design of the screen shall be compatible with the character of the surrounding area and may include either an architectural feature or landscaping, or combination of both.
- f) Facilities for the maintenance and repair of aircraft shall be restricted to the industrial and airport districts.
- g) The landing pad shall be a minimum of 200 feet from residential uses or districts and a minimum of 100 feet from nonresidential districts.
- h) The landing pad may incorporate an affixed (i.e., painted) sign or notation for use by pilots in locating said pad from the air. A windsock or similar feature shall also be permitted. Ground or pole type signage shall be limited to one sign not to exceed five square feet.
- i) The pad may be artificially lighted. Said lights shall be designed and placed to prevent off-site glare to surrounding properties.
- j) The applicant shall submit evidence that all federal and state requirements have been met pursuant to placement and design of the heliport.
- k) The Township Board, after consultation with local safety officials including but not limited to the Township fire chief, Mason County Sheriff, and/or the Mason County Emergency Services/Preparedness Director, may impose additional conditions in order to ensure the public health, safety, and welfare.

24.14 COMMERCIAL KENNELS.

- a) Buildings wherein dogs are kept, dog runs and/or exercise or training areas shall not be located nearer than 100 feet to any adjacent occupied dwelling or building used by the public, and shall not be located in any required setback area.
- b) All other principal use activities shall be conducted entirely within an enclosed building.
- c) The minimum lot size shall be five acres with 250 feet of lot width.

24.15 PONDS

The following provisions shall apply to ponds:

- a) The Planning Commission shall consider the following:

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- 1) The nature, design and size of the pond will not negatively impact the drainage, groundwater supply and quality, direction of groundwater flow, nor increase the erosion of adjoining property.
 - 2) The purpose(s) for which the pond is being constructed is clearly incidental to the principal use(s) of the zoning district in which said pond is to be located.
 - 3) The character, nature and size of the pond.
 - 4) The pond will not create a health hazard as a result of stagnation or pollution.
 - 5) The effect of the pond on adjoining properties in surrounding neighborhoods.
- b) If the Planning Commission shall determine, as part of its proceedings for the authorization of a pond pursuant to subsection (1) above, that the protection and safety of the general public requires the pond to be enclosed, then the pond shall be enclosed by fence or wall, which shall be subject to and meet the same standards and requirements as are provided in Section 3.42 with respect to fences or walls enclosing swimming pools.
- c) Existing ponds may be maintained without the necessity of a conditional use permit. "Maintained" is defined to mean all acts necessary for the upkeep and care of the pond, provided that the surface area of the pond is not enlarged. In the event that the surface area of the pond is enlarged, a conditional use permit is required pursuant to the provision of this ordinance.
- d) In considering such authorization as based on the above standards, the Planning Commission may impose the following conditions:
- 1) Certification from a qualified individual or agency, such as a Michigan Registered Professional Civil Engineer or United States Department of Agriculture-Soil Conservation Service, that the pond has been designed pursuant to approved engineering standards. Said certification may also be required pursuant to construction of the pond.
 - 2) An increase in required minimum setback.

24.16 PROCESSING AND PACKAGING FACILITIES, FRUIT AND VEGETABLE.

Storage of products or materials in the required front yard is prohibited.

24.17 RETAIL SALES OF AGRICULTURAL EQUIPMENT, SUPPLIES AND SERVICES.

- a) Display and/or storage of equipment or other material shall not be permitted in any required front or side yard setback.
- b) Inoperable machinery or equipment or parts thereof shall be contained entirely within an enclosed building or screened area.
- c) There shall be no outside storage of loose material capable of being removed off premises by natural forces.
- d) There shall be no storage of material in such a fashion as to provide the potential for groundwater contamination.

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24.18 ROOMING HOUSES.

- a) A rooming house shall have no more than four rooms rented for sleeping purposes.
- b) One off street parking space shall be provided for each sleeping room.

24.19 SALVAGE/JUNK YARDS.

- a) Whenever the installation abuts a residential district, a transition strip at least 100 feet in width shall be provided between the fenced periphery of the site and the adjoining district. Landscaping shall be provided per Article 26.
- b) Adequate standing and parking facilities shall be provided at the site so that no loaded vehicle at any time stands on a public right-of-way awaiting entrance to the site.
- c) Materials shall be adequately protected so as to contain blowing debris.
- d) Required screening shall include an opaque fence at least six feet in height but no higher than ten feet. All activities shall be confined within the fenced periphery of the site. No equipment, material or lighting shall be used or stored outside the enclosed area.
- e) No open burning shall be permitted.
- f) All roads, driveways, parking lots, and loading/unloading areas within any salvage/junk yard shall be paved, watered, or chemically treated so as to limit the nuisance caused by wind-borne dust on adjoining lots and public roads. All access drives outside fenced areas shall be paved.
- g) Facility must conform to all Michigan Department of Environment, Great Lakes and Energy regulations regarding wellhead protection zones.
- h) Any materials listed on the Michigan Critical Materials Register (gasoline, Freon, solvents, etc.) shall require a secondary containment and a Pollution Incident Protection Plan filed with the Michigan Department of Natural Resources and Michigan Department of Environment, Great Lakes and Energy.
- i) On-site retail sales of salvaged goods are permitted.

24.20 SEXUALLY ORIENTED BUSINESSES AND RELATED ACTIVITIES

a) Scope and findings general intent. The provisions of this section apply to sexually oriented businesses and related activities. There is convincing documented evidence that sexually oriented businesses, because of their very nature, have a deleterious effect on both the existing businesses around them and the surrounding residential areas adjacent to them; and, have serious harmful, negative and objectionable operational characteristics, particularly when they are located in close proximity to each other.

It is not the intent of this ordinance to suppress any activity protected by the First Amendment of the United States Constitution or article I, section 5, of the Michigan Constitution of 1963, but to enact content-neutral regulations which address the adverse secondary effects of sexually oriented businesses in order to protect the health, safety and general welfare of the township.

The township recognizes that state and federal law prohibit the distribution of obscene materials and expects and encourages state enforcement officials to enforce state and federal obscenity

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statutes against any such illegal activities that may occur within the township.

(b) Purpose. It is the purpose of this ordinance to regulate sexually oriented businesses and related activities to promote and ensure the health, safety, and general welfare of the citizens of the township and to establish reasonable and uniform regulations to prevent the deleterious effects of sexually oriented businesses within the township. The provisions of this ordinance do not have the purpose of imposing a limitation or restriction on the content of any communicative material, including sexually oriented materials. Similarly, it is not the intent of this ordinance to restrict or deny access by adults to sexually oriented materials protected by the First Amendment of the United States Constitution, and article I, section 5, of the Michigan Constitution of 1963, 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.

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

Adult book or video store means an establishment having as a substantial or significant portion of its stock in trade, books, magazines, periodicals, films, computer software or videotapes which are distinguished or characterized by their emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas," as defined herein.

Adult entertainment establishment means a theater, concert hall, auditorium, or similar commercial establishment which regularly features persons who appear in a state of nudity or live performances presented for the enjoyment of the audience which has paid or promised to pay an admission fee and which are characterized by the exposure of specified anatomical areas or by specified sexual activities.

Adult mini-theater means a commercial establishment where, for any form of consideration, in an enclosed area with a capacity of less than ten persons, films, motion pictures, videocassettes, digital video discs, slides, or similar photographic reproductions are shown which are characterized by an emphasis on the depiction or description of specified sexual activities or specified anatomical areas.

Adult motion picture theater means a commercial establishment where, for any form of consideration, films, motion pictures, videocassettes, digital video discs, slides, or similar photographic reproductions are regularly shown which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas," as defined herein.

Adult novelty business means a business that has as a substantial or significant portion of its activity in the sale of devices which stimulate human genitals or devices designed for sexual stimulation.

Nudity or state of nudity means the appearance of a human bare buttock, anus, male genitals, female genitals, or female breast without a fully opaque complete covering or the breast below a point immediately above the top of the areola, or human male genitals in a discernible turgid state even if complete and opaquely covered. For purposes of this section, the term "nudity" or a "state of nudity" does not include:

- A woman's breast-feeding of a baby whether or not the nipple or areola is exposed during or incidental to the feeding;

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- Material as defined in section 2 of Public Act No. 343 of 1984 (MCL 752.362), or any similar successor statute; or
- Sexually explicit visual material as defined in section 3 of Public Act No. 33 of 1978 (MCL 722.673), or any similar successor statute.

Permit means a conditional use permit for the operation of a sexually oriented business and issued pursuant to this article and this section.

Permittee means a person in whose name a permit to operate a sexually oriented business has been issued as well as the individual listed as an applicant on the application for a permit.

Person means an individual, proprietorship, partnership, Limited Liability Company, corporation, association, or other legal entity.

Sexually oriented business means an adult book or video store, adult motion picture theater, adult mini-theater, adult novelty business, or adult entertainment establishment.

Specified anatomical area includes:

- Less than completely and opaquely covered human genitals, pubic regions, buttocks and female breasts below a point immediately above the top of the areola;
- Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

Specified sexual activities includes:

- Acts of human masturbation, sexual intercourse, or sodomy;
- Fondling or other erotic touching of human genitals, pubic regions, buttocks or female breasts;
- Human genitals in a state of sexual stimulation or arousal.

Transfer of ownership or control of a sexually oriented business means and includes any of the following:

- The sale, lease, or sublease of the business;
- The transfer of securities, partnership interests, membership interest or indicia of ownership rights which constitute a controlling interest in the business, whether by sale, exchange, or similar means;
- The establishment of a trust, gift, or other similar legal device which transfers the ownership or control of the business, except for transfer by bequest or other operation of law upon the death of the person possessing the ownership or control.

d) Permit required.

1) It shall be unlawful for a person to operate a sexually oriented business without a valid conditional use permit issued by the township zoning administrator.

2) An application for a permit must be made on a form provided by the township. The application must be accompanied by a sketch or diagram showing the configuration of the business premises, including a statement of total floor space occupied by the business. The sketch or diagram need not be professionally prepared but must be drawn to a designated scale

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or drawn with marked dimensions of the interior of the premises to an accuracy of plus or minus six inches.

3) An application for a permit shall be made and delivered to the zoning administrator by the intended operator of the sexually oriented business. The intended operator shall be required to give the following information on the application form:

- i. Intended operator or owner's name and address.
 - a. The name and street address (and mailing address, if different) and driver's license number of the intended operator if he/she has a driver's license.
 - b. The name and street address (and mailing address, if different) of the owner(s), if different than the intended operator.
- ii. The name under which the sexually oriented business is to be operated and a general description of the services to be provided.
- iii. The telephone number of the sexually oriented business or, if unavailable, the operator's telephone number.
- iv. The address, tax parcel number, and legal description, of the tract of land on which the sexually oriented business is to be located.

4) The fact that a person possesses other types of state or county permits and/or licenses does not exempt him from the requirement of obtaining a conditional use permit from the township under this section.

5) The application shall be accompanied by the following:

- i. Payment of the application fee in full;
- ii. Proof of current fee ownership of the tract of land on which the sexually oriented business is to be situated in the form of a copy of the recorded deed, land contract, or other instrument of conveyance;
- iii. If the persons identified as the fee owner(s) of the tract of land in subsection (d)(5)iii of this section, are not also the owners of the sexually oriented business, then the lease, purchase contract, purchase option contract, lease option contract or other documents evidencing the legally enforceable right of the ownership or proposed owners of the premises to have or obtain the use and possession of the premises or portion thereof that is to be used for the purpose of the operation of the sexually oriented business.

6) The application shall contain a statement under oath that:

- i. The applicant has personal knowledge of the information contained in the application and that the information contained therein and furnished therewith is true and correct; and
- ii. The applicant has read the provisions of this section.

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e) Issuance of permit.

1) Upon receipt of an application and fee, the zoning administrator shall promptly review the application and supporting documents for completeness and proper execution.

If found to be complete and properly executed, the zoning administrator shall forward the application and other documents to the Planning Commission for review and hearing under Article 24. The review and decision of the Planning Commission on conditional use approval under Article 24 and any decision on approval of a site plan under Article 23 shall occur no later than 120 days from the date the zoning administrator receives the completed application. The Planning Commission shall grant conditional use approval if the application is in compliance with the requirements contained in subsections (i), (j) and (k) of this section and the following requirements are met:

- i. The applicant is 18 years of age or older.
 - ii. The applicant shall not be overdue or delinquent in payment of taxes, fines, or penalties assessed against or imposed upon applicant in relation to a sexually oriented business conducted in the township.
 - iii. The applicant has made full and accurate representations and has truthfully answered all questions and requests for information on the application form.
 - iv. The applicant shall not have been denied a permit by the township to operate a sexually oriented business within the preceding 12 months, and has not had a license to operate a sexually oriented business in the township revoked within the preceding 12 months.
 - v. The premises to be used for the sexually oriented business have been approved by the health department for the use intended, if applicable.
 - vi. The applicant has not been convicted within five years immediately preceding the application date of any of the following criminal offenses in any jurisdiction:
 - a. Prostitution, procuring a prostitute, or solicitation of a prostitute; sale, distribution or display of obscene material; soliciting, procuring or aiding and abetting an unlawful sexual performance by a minor; possession, sale or distribution of child pornography; public lewdness; indecent exposure; indecent conduct with a child; sexual assault or rape; incest; or sexual solicitation of a child.
 - b. The applicant shall certify, as a part of the application, that he/she/it has not been convicted of any one or more of the foregoing criminal offenses.
- 2) The Planning Commission may recommend and/or the township board may impose reasonable conditions in conjunction with the approval of a conditional use permit for a sexually oriented business. The conditions imposed shall be limited to conditions necessary to ensure that the sexually oriented business will not be unreasonably detrimental to the public health, safety, or general welfare of the township; nor unreasonably injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted; nor

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unreasonably impede the normal and orderly development and improvement of the surrounding property for uses permitted under the zoning ordinance.

(3) The permit, if granted, shall state on its face the name of the person or persons to whom it is granted, and the address of the sexually oriented business. The permit shall be posted in a conspicuous place at or near the entrance to the sexually oriented business so that it may be easily read at any time.

f) Inspection. An applicant or permittee shall allow the township zoning administrator or representatives of the township code enforcement office to inspect the premises of a sexually oriented business for the purpose of insuring compliance with the law at any time it is occupied or open for business.

g) Action to revoke permit. The zoning administrator shall take enforcement action, including the commencement of suit seeking revocation of a permit, if any of the following occurs:

- 1) A permittee gave false or materially misleading information in the application process.
- 2) A permittee has been convicted of using and/or allowing the use of the controlled substances on or in the premises of the sexually oriented business.
- 3) A permittee has been convicted of prostitution or other activity fostering, promoting or otherwise facilitating prostitution, on or in the premises of the sexually oriented business or elsewhere.
- 4) A permittee or employee of the sexually oriented business has been convicted of any crime of a sexual nature or involving sexual conduct or the solicitation thereof on or in the premises of the sexually oriented business or elsewhere.
- 5) A permittee has been convicted of knowingly allowing a person under 18 years of age to enter the sexually oriented business.
- 6) There has been a transfer of ownership or control of the sexually oriented business without the prior approval, as required herein.

h) Transfer of permit. A permittee shall not transfer a conditional use permit to another person, nor shall a permittee operate a sexually oriented business under the authority of a permit at any place other than the address designated in the application. Transfers of the ownership, control and/or operation of a sexually oriented business shall require the new person or entity to comply with the application and approval provisions of this section.

i) Location restrictions.

- 1) A sexually oriented business may not be operated within 1,000 feet of:
 - i. A church, synagogue or regular place of religious worship;
 - ii. A public or private school; or
 - iii. Another sexually oriented business.
- 2) A sexually oriented business may not be operated within 450 feet of:
 - i. A boundary of any residential zoned district or any residential structure;

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- ii. A licensed day care center; or
 - iii. A public park.
- 3) A sexually oriented business may not be operated within 500 feet of:
 - i. A campground or recreational vehicle park; or
 - ii. An outdoor recreational park.
- 4) A sexually oriented business may not be operated in the same building, structure, or portion thereof, containing another sexually oriented business.
- 5) For the purpose of this section, measurement shall be made in a straight line, without regard to intervening structure or objects, from the nearest portion of the building or structure used as a part of the premises where a sexually oriented business is conducted to the nearest property line of the premises of a church, synagogue, regular place of worship, or public or private school, or to the nearest boundary of an affected public park, residential district, or residential lot, licensed day care center, camp ground/recreational vehicle park or an outdoor recreational park.
- 6) For purposes of subsection (i)(4) of this section, the distance between any two sexually oriented business uses shall be made from the closest exterior wall of the structure in which each business is located.
- (7) A sexually oriented business may only be operated in a c-2, commercial zoning district as designated in this ordinance.
- j) Regulations pertaining to adult entertainment establishments. A person who operates or causes to be operated an adult entertainment establishment shall comply with the following requirements:
 - 1) The application for a conditional use permit shall be accompanied by a diagram of the premises showing a plan thereof specifying the location of one or more manager's stations and the location of all overhead lighting fixtures (indicating the type of illumination, intensity of each such fixture) and designating any portion of the premises in which patrons will not be permitted. A manager's station may not exceed 30 square feet of floor area. The diagram shall also designate the place at which the permit will be conspicuously posted, if granted. Unless it is for a new commercial structure to be built, professionally prepared diagram in the nature of an engineer's or architect's blueprint shall not be required; however, each diagram should be oriented to the north or to some designated street or object and should be drawn to a designated scale or with marked dimensions sufficient to show the various internal dimensions of all areas of the interior of the premises.
 - 2) No alteration in the configuration or location of a manager's station may be made without the prior approval of the zoning administrator.
 - 3) It is the duty of the owners and operator of the premises to ensure that at least one employee is on duty and situated in each manager's station at all times that any patron is present inside the premises.

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4) The interior of the premises shall be configured in such a manner that there is an unobstructed view from a manager's station of every area of the premises to which any patron is permitted access for any purpose excluding restrooms.

Restrooms shall not contain video reproduction equipment. If the premises have two or more manager's stations designated, then the interior of the premises shall be configured in such a manner that there is an unobstructed view of each area of the premises to which any patron is permitted access for any purpose from at least one of the manager's stations. The view required in this subsection must be by direct line of sight from the manager's station.

5) It shall be the duty of the owners and operator, and it shall also be the duty of any agents and employees present in the premises to ensure that the view area specified in subsection (j)(4) of this section remains unobstructed by any doors, walls, merchandise, display racks or other materials at all times and to ensure that no patron is permitted access to any area of the premises which has been designated as an area in which patrons will not be permitted in the application filed pursuant to subsection (d) of this section.

6) The premises shall be equipped with overhead lighting fixtures of sufficient intensity to illuminate every place to which patrons are permitted access at an illumination of not less than one foot-candle as measured at the floor level.

7) It shall be the duty of the owners and operator and it shall also be the duty of any agents and employees present in the premises to ensure that the illumination described above is maintained at all times that any patron is present in the premises.

8) The premises shall meet all barrier free requirements and building code requirements imposed by the Pere Marquette Charter Township Building and Inspections Department.

9) Hours of operation shall be limited to 8:00 a.m. to 2:00 a.m.

10) When live performers are involved in the sexually oriented business, privacy dressing rooms are to be provided, and an aisle between the performance area and the dressing room shall be kept clear and unobstructed so the performers can pass through without contact with patrons.

11) Parking layouts shall not adversely affect the flow of traffic within the site, or to and from the adjacent streets.

12) All off-street parking areas shall be sufficient for all vehicles patronizing the establishment, shall be illuminated during all hours of operation with down shining lighting, and shall be open to view from the adjacent street.

13) Grounds maintenance shall include routine clearing of rubbish and trash from the grounds, and hauling away of same at least once per week, as weather permits.

14) No person shall reside in or permit any person to reside in the premises of an adult sexually oriented business.

15) All performers shall be salaried by the operators/owners of the sexually oriented business.

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16) No person shall become the lessee or sublessee of any property for the purpose of using said property for a sexually oriented business without the express written permission of the owner of the property.

17) The maximum number of persons, including patrons, performers and operators, allowed in a structure at any one time shall be as established by the township's current building code, however, the number of patrons allowed on premises at any one time shall be limited to the amount of seating available, but shall not exceed one person for each 15 square feet of public net floor space, exclusive of restrooms, dance floor, administrative areas, hallways, etc.

k) Exterior portions of sexually oriented business.

1) It shall be unlawful for an owner or operator of a sexually oriented business to allow the merchandise or activities of the establishment to be visible from a point outside the establishment.

2) It shall be unlawful for the owner or operator of a sexually oriented business to allow the exterior portion of the sexually oriented business to have any words, lettering, photographs, silhouettes, drawings, or pictorial representations of a sexual or explicit manner except to the extent otherwise permitted by the provisions of this ordinance.

3) Signs shall contain no photographs, silhouettes, drawings or pictorial representations of any kind, and may contain only the name of the enterprise.

l) Persons younger than 18 prohibited from entry; attendant required.

1) It shall be unlawful to allow a person who is younger than 18 years of age to enter or be on the premises of a sexually oriented business at any time that the sexually oriented business is open for business.

2) It shall be the duty of the operator of each sexually oriented business to ensure that an attendant is stationed at each public entrance to the sexually oriented business at all times during such sexually oriented business's regular business hours. It shall be the duty of the attendant to not allow any person under the age of 18 years to enter the sexually oriented business. It shall be presumed that an attendant knew a person was under the age of 18 unless such attendant asked for and was furnished:

i. A valid operator's, commercial operator's, or chauffeur's license; or

ii. A valid personal identification certificate reflecting that such person is 18 years of age or older.

m) Exemption. The following are exempt from the provisions of this section: the appearance of a person in a state of nudity in a modeling class, art class, dance class, theater class/production operated:

1) By a proprietary school, licensed by the State of Michigan, a college, junior college, or university supported entirely or partly by taxation;

2) By a private college or university that maintains and operates educational programs in which credits are transferable to a college, junior college, or university supported entirely or partly by taxation.

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n) Notices.

1) Any notice required or permitted to be given by the township or other agency under this ordinance to any applicant, operator or owner of an establishment may be given either by personal delivery or by certified United States mail, postage prepaid, return receipt requested, addressed to the most recent address as specified in the application for the permit, or transfer application that has been received by the township, or any notice of address change that has been received by the township. Notices mailed as above shall be deemed given upon their deposit in the United States mail. In the event that any notice given by mail is returned by the postal service, the township shall cause it or a replica thereof to be posted at the principal entrance to the establishment.

2) Any notice required or permitted to be given to the township by any person under this ordinance shall not be deemed given until and unless it is received in the principal office of the township planning department.

3) It shall be the duty of each owner who is designated on the permit application and each operator to furnish notice to the township, in writing, of any change of residence or mailing address.

o) Nonconforming uses. Any business lawfully operating on the effective date of this ordinance (June 1, 1994) that is in violation of the location or structural configuration requirements of this ordinance shall be deemed a nonconforming use. The nonconforming use will be permitted to continue for a period not to exceed one year, unless sooner terminated for any reason or voluntarily discontinued for a period of 30 days or more. If two or more sexually oriented businesses are within 1,000 feet of one another and otherwise in a permissible location, the sexually oriented business which was first established and continually operating at a particular location is the conforming use and the later-established business is nonconforming. A sexually oriented business lawfully operating as a conforming use is not rendered a nonconforming use by the subsequent location of a church, synagogue, or regular place of religious worship, or public or private school, within 1,000 feet, or the location of a boundary of any residential zoned district or any residential structure, a licensed day care center or a public park, within 450 feet or the location of a campground/recreational vehicle park or an outdoor recreational park within 500 feet. This provision applies only to the renewal of a valid permit and does not apply when an application for a permit is submitted after a permit has expired or has been revoked.

p) Injunction. A person who operates or causes to be operated a sexually oriented business without a valid permit or otherwise violates this ordinance shall be subject to a suit for injunctive relief and/or revocation of the sexually oriented business permit, as well as fines or other penalties as provided by this zoning ordinance.

q) Variances and limitation on reapplication. Relief from any dimensional requirement of this ordinance may be granted by the zoning board of appeals in accordance with Article 33. Any evidence and any guarantee may be required as proof that the conditions stipulated in connection therewith will be fulfilled. No application for a waiver of a spacing requirement or other zoning

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board of appeals approval for a regulated use which has been denied wholly or in part, or granted with conditions shall be resubmitted for a period of one year from the date of said order, except on the grounds of new evidence not previously available or proof of changed conditions.

r) Expansion and discontinuance.

- 1) Once established, a sexually oriented business may not be expanded in any manner without first applying for and receiving the approval of the zoning administrator.
- 2) If the regulated use is voluntarily discontinued, the use may not be reestablished without first applying for and receiving the approval of the zoning administrator.
- 3) Nothing herein shall prevent the reconstruction, repairing, or rebuilding and continued use of any building or structure under the regulation of this ordinance, which is damaged by fire collapse, explosion, or any other involuntary cause.

24.21 GROUP CHILD CARE HOMES

- a) A group child care home and an adult day care home shall not be closer than 1500 feet to: another licensed group child care home; another adult day care home, an adult foster care small or large group home licensed under the adult foster care licensing act, PA 218 of 1979 as amended; a facility offering substance abuse treatment and rehabilitation service to 7 or more people licensed under article 6 of the public health code, PA 368 of 1978 as amended; a community correction center, resident home, halfway house, or other similar facility which houses an inmate population under the jurisdiction of the Michigan Department of Corrections.
- b) Any outdoor play or recreation areas shall not be located within the required front yard setback area and shall be the minimum area required by state law.
- c) All outdoor play and recreation areas shall be enclosed by a fence that is at least 48 inches high and complies with the applicable regulations for fences as required by this Zoning Ordinance.
- d) Group homes shall meet the minimum dimensional regulations for single-family dwellings as required pursuant to the district in which the facility is to be located.
- e) As a condition of approval, the Planning Commission may require conditions or site improvements as necessary to ensure the health and safety of children and adults and to ensure compatibility with neighboring uses and properties.
- f) One off-street parking space shall be provided for each non-family employee of the group child care home in addition to parking normally required for the residence. A driveway shall be used to fulfill this requirement.
- g) Hours of operation shall not exceed 16 hours in a 24-hour period. Outdoor activities pertaining to the day care operation shall not take place between the hours of 10:00 pm and 6:00 am.
- h) A group home may have a sign as permitted by the zoning district in which the home is located.

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24.22 VETERINARY CLINICS.

- a) Dog runs and/or exercise areas shall not be located nearer than 100 feet to any adjacent occupied dwelling or building used by the public, and shall not be located in any required yard setback area.
- b) All other principal use activities shall be conducted entirely within an enclosed building.

24.23 MULTI-FAMILY DWELLINGS.

Multifamily dwellings shall be permitted in the R-2, C-1, and C-2 Districts provided that the following conditions are met:

- a) Access shall be provided by either two, one-way drives of not less than 15 feet in width or one, two-way drive of not less than 20 feet minimum width. Such drives shall be paved for such widths and shall provide separate, unrestricted access to a public road. Additional drive width shall be provided for utilities whenever feasible.
- b) A lot containing a multi-family dwelling need not have frontage on a public street.
- c) The front lot line for determining building setbacks shall be the edge of the access easement serving the parcel.
- d) A multi-family use shall be connected to public water and sanitary sewer
- e) Minimum lot size with sewer is 4000 sq. ft./dwelling unit which is a maximum of 10.89 units per acre.

24.24 RECYCLING FACILITY

- a) Whenever the installation abuts a residential district, a transition strip at least 100 feet in width shall be provided between the fenced periphery of the site and the adjoining district. Such strip shall be landscaped according to Article 26.
- b) Adequate standing and parking facilities shall be provided at the site so that no loaded vehicle at any time stands on a public right-of-way awaiting entrance to the site.
- c) Materials shall be adequately protected so as to contain blowing debris.
- d) Required screening shall include an opaque fence at least six feet in height but no higher than ten feet. All activities shall be confined within the fenced periphery of the site. No equipment, material or lighting shall be used or stored outside the enclosed area. Materials shall not be stacked higher than the fence.
- e) No open burning shall be permitted.
- f) All roads, driveways, parking lots, and loading/unloading areas within any recycling facility yard shall be paved, watered or chemically treated so as to limit the nuisance caused by wind-borne dust on adjoining lots and public roads. All access drives outside fenced areas shall be paved.
- g) Recycling facilities must conform to all Michigan Department of Environment, Great Lakes and Energy regulations regarding wellhead protection zones.

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h) Any materials listed on the Michigan Critical Materials Register (gasoline, Freon, solvents, etc.) shall require a secondary containment and a Pollution Incident Protection Plan filed with the Michigan Department of Natural Resources and Michigan Department of Environment, Great Lakes and Energy.

i) Onsite retail sales of recycled goods are prohibited.

24.25 AUTOMOTIVE REPAIRS: GENERAL AND MAJOR BODY.

a) All vehicle repairs shall be done within an enclosed structure.

b) Vehicles awaiting body repairs shall not be parked in the front yard.

c) Storage of new or used parts that are not on display for sale shall be kept in an enclosed structure or within an area screened by a six feet tall solid fence. Such storage shall not be located within the required front yard.

d) Vehicle storage areas shall be paved.

e) Towing services are permitted as an accessory use. Vehicles used in the towing operation shall not be parked in the front yard.

24.26 OPEN AIR BUSINESSES

a) The lot area used for vehicle display shall be hard-surfaced and the display or storage areas shall be provided with a permanent, durable, and dustless surface, and shall be graded and drained so as to dispose of all surface water

b) The servicing and repair of vehicles, equipment or other items are permitted as an accessory use subject to approval by the Planning Commission.

c) Open air businesses shall have a permanent building in which business office operations are conducted.

24.27 SELF-SERVICE STORAGE FACILITY

a) Outdoor storage is limited to boats, vehicles, trailers, recreational vehicles and equipment. Such items shall be kept in the rear of the parcel or otherwise located or screened from street view.

b) The use of the units for any residential, commercial, manufacturing, or assembly use, or repair service or similar use is prohibited.

c) Buildings shall be a minimum of 25 feet apart.

d) Required parking for the storage units shall be provided within the access aisles abutting the units.

e) All driveways, parking, loading storage, and vehicular circulation areas shall be paved.

f) All exterior lights including those attached to a building shall be equipped with cut-off fixtures to direct light downward.

g) The site shall be designed to avoid dead-end access lanes unless there is sufficient room for vehicles to turnaround.

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h) The buildings shall be enclosed by a six feet high security fence. Barb wire fencing is prohibited.

24.28 RURAL RECREATION/ SPECIAL EVENTS IN THE A-1 AND A/R ZONING DISTRICTS.

a) The parcel on which the event is to take place shall contain a minimum of ten acres with a minimum of 200 feet of lot width.

b) The parcel shall contain an occupied single-family dwelling.

c) Only buildings which existed on the site as of the date of adoption of this amendment may be used for the proposed use. However, the Planning Commission may permit such buildings to be expanded up to 25 percent of the existing square footage provided all other applicable requirements of Township Ordinances are met.

d) Buildings proposed to be used shall comply with the applicable requirements of the Township Building Code and requirements of the Township Fire Chief.

e) The applicant shall submit the following to the Township as part of the application:

1) A written description of: the types of events to be held; the frequency of the events; hours and days of operation; provision for restroom facilities and food and beverages; security and traffic control measures; tents or other shelters to be erected; sound system; and other operational characteristics of the event.

2) Such uses shall not be subject to the site plan review requirements of Article 23 of this Ordinance. However, ten copies of an accurate and scaled drawing shall be submitted illustrating the location of the parcel within the Township, lot lines, setbacks of existing and proposed buildings, location and dimensions of the parking area, the width and location of access drives, location of exterior lights, event area, any tents or canopies to be used, distance to nearest dwelling unit off site and other relevant features of the site and the use as may be required by the Planning Commission.

3) Proof of liability insurance.

f) The Planning Commission shall review the application and site drawing to confirm that the operation is designed to ensure the safety of users and that the use will not have a detrimental effect on nearby residents and property and will meet the Conditional Use approval standards of Section 23.03 as applicable.

g) In approving the use, the Commission may attach conditions in accordance with the provisions of Section 24.04 herein including limiting the hours of operation and frequency of the use in order to protect nearby land uses. Failure to comply with the conditions of approval may result in the termination of the Conditional Use by the Planning Commission following a public hearing.

24.29 BIO FUEL PRODUCTION FACILITIES.

In addition to the requirements for a Conditional Use Permit as set forth in Chapter 24 herein a biofuel production facility is subject to the following:

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- a) The application materials shall include a description of the process to be used to produce biofuel and the number of gallons of biofuel anticipated to be produced annually.
- b) An emergency access and fire protection plan shall be prepared by the applicant for approval by the Pere Marquette Charter Township Fire Department and the Mason County Sheriff Department.
- c) A Conditional Use approval of a biofuel production facility shall be made expressly conditioned on the facility meeting all of the following requirements before the facility begins operation:
- 1) Buildings, facilities, and equipment used in the production or storage of biofuel shall comply with all applicable laws of Pere Marquette Charter Township, the State of Michigan and the federal government.
 - 2) The owner or operator of the biofuel production facility provides the local unit of government with proof that all necessary approvals have been obtained from the Michigan Department of Environment, Great Lakes and Energy and other state and federal agencies that are involved in permitting any of the following aspects of biofuel production:
 - i. Air pollution emissions;
 - ii. Transportation of biofuel or additional products resulting from biofuel production;
 - iii. Use or reuse of additional products resulting from biofuel production;
 - iv. Storage of raw materials, fuel, or additional products used in, or resulting from, biofuel production.
 - v. Disposal of liquid solid wastes.

24.30 HOME BASED BUSINESS REQUIREMENTS

- a) A Home-Based Business is an occupation, business, commercial activity, company or profession carried on by family members residing on the premises which is clearly incidental and secondary to the principal single-family residential use and has one or more of the following characteristics and is not a farm operation as defined herein:
- 1) The business has one or more employees who do not reside on the premises but who work on the premises or travel to the premises to pick up business vehicles or equipment for use off the premises;
 - 2) The business has outside storage of materials or equipment solely related to the business within a designated and screened area; and/or
 - 3) Has vehicles related solely to the home or business.
- b) A Home-Based Business is allowed only in single family residential dwelling units in the A-1 and A/ R zoning districts provided a Conditional Use Permit is approved by the Planning Commission in accordance with the requirements of Article 24 herein.
- c) A Home-Based Business shall comply with all of the following requirements:
- 1) The operator of the business shall be the property owner and must reside on the premises;

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2) Outdoor storage of materials, equipment, and employee parking involved in the business is permitted provided it is adequately screened so it is not visible from adjoining roads and properties. Measures to screen such material or equipment are subject to the approval of the Planning Commission and shall include but are not limited to one or more of the following: a solid fence no more than six feet in height; plantings which are at least five feet in height at planting and which will provide an adequate year-round screen; the topography of the site; existing vegetation on the site or the screening is provided by existing buildings.

3) The residential appearance of the dwelling shall not be altered in order to conduct the Home-Based Business.

4) The Home-Based Business shall be conducted so it does not constitute a nuisance or annoyance to the residents of adjoining properties due to noise, smoke, odor, electrical disturbance or night lighting, or the creation of unreasonable traffic to the premises or the outdoor parking of multiple vehicles related to the business.

5) In its approval of a Home-Based Business, the Planning Commission may impose reasonable conditions to ensure that the Home-Based Business will be compatible with its residential surroundings. Such conditions may include but are not limited to restricting the hours of operation, limiting the number of non-resident employees, limiting the type and scope of operation, limiting the number and type of delivery vehicles and the number and type of business vehicles parked on the property and limiting the number of customer visits to the Home-Based Business, and the material which may be stored outdoors.

d) Standards for Approval. The Planning Commission shall base its decision for the approval of a Home-Based Business on the following standards:

1) Compliance with the requirements of this Section, including any conditions of the Conditional Use Permit;

2) Whether the vehicle traffic generated by the business will worsen the travel condition of the road serving the business or if the business vehicles will create unsafe travel conditions for other vehicles using the road.

3) Whether the business will be disruptive to nearby residents due to noise, vehicle traffic, lights, visibility of employees and equipment taking into consideration the number of nearby dwellings, the distance of the dwellings from the business, the condition of the roadway used by business vehicles and the visibility of the business to residents of nearby dwellings.

4) The general standards for a Conditional Use Permit approval found in this Ordinance.

e) Home-Based Business Conditional Use Permit Procedure. The following procedure shall be followed to obtain a permit for a Home-Based Business:

1) An application for a Home-Based Business shall be subject to the procedures and requirements for a Conditional Use Permit as set forth herein except that the site plan shall comply with the requirements of this Section and this Ordinance.

2) The applicant shall provide a written description of the Home-Based Business describing:

i. Acreage of the parcel where the business is to be located;

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- ii. Type of business;
 - iii. Days and hours of operation;
 - iv. Number of resident and non-resident employees;
 - v. Number and types of vehicles and equipment used in the business;
 - vi. Estimated customer and delivery trips per week, and vehicle or equipment pick-ups or drop-offs per week;
 - vii. How the Home-Based Business meets the approval standards of this Section.
- 3) The applicant shall submit an accurate site plan drawing illustrating:
- i. The parcel and existing and proposed buildings on the property, and distances from all lot lines, showing that it meets the required setbacks for buildings;
 - ii. The outdoor area on the parcel where the business will be conducted and any buildings proposed to be used for the Home-Based Business and distance to all lot lines, showing that it meets the required setbacks for buildings;
 - iii. The driveway serving the parcel and the parking area for employees and business vehicles. Such parking need not be paved;
 - iv. The distance to the nearest dwelling on adjacent property as measured from the lot line of the business parcel;
 - v. The area where equipment will be stored outdoors and proposed measures of screening and fencing, in accordance with the fencing requirements of this Ordinance.
- 4) The Planning Commission shall review the application materials at a public hearing and may approve the Home-Based Business if the Planning Commission determines that the proposed Home-Based Business meets the Home-Based Business Standards listed herein and the Conditional Use and Site Plan approval standards of Conditional Land Uses as provided in this Ordinance.
- 5) If approved, a Home-Based Business Conditional Land Use Permit shall be issued and a copy provided to the applicant. The Conditional Land Use Permit shall be valid provided all Home-Based Business standards and any conditions imposed by the Planning Commission continue to be met.
- 6) The Home-Based Business Conditional Land Use Permit may be subject to an annual review by the Planning Commission or Zoning Administrator. The review process may include but is not limited to the compliance with the standards and conditions set forth in granting the Home-Based Business Conditional Use Permit and any additional standards set by the Township at the time the Home-Based Business Conditional Land Use Permit was granted.

24.31 BED AND BREAKFAST

- a) Such uses shall only be established in a detached single-family dwelling.
- b) The bed and breakfast inn shall be the principal residence of the operator.

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- c) One off street parking space shall be provided for each sleeping/guest room.
- d) Meals may be served only to the operator's family, employees, and overnight guests.

24.32 MINERAL EXTRACTION AND PROCESSING/REMOVAL AND/OR ADDITION OF TOPSOIL, SAND, GRAVEL OR OTHER SUCH MATERIAL

The following provisions apply to mineral extraction and processing/removal and/or addition of topsoil, sand, gravel or other such material.

a) No topsoil, sand, gravel, or other such materials involving a surface area over one acre or within 500 feet of a body of water shall be removed from or added to any property in the township unless authorized by the Planning Commission as a Conditional Land Use in accordance with Article 24 herein unless otherwise permitted by this Section 24.32. In considering such authorization, the Planning Commission or its designee shall require evidence that a soil erosion permit has been issued by the Mason County Drain Commission and shall consider the following standards and criteria:

- 1) The size of the property from which such topsoil, sand, gravel or other such materials are to be removed and/or added in relation to the area affected;
- 2) The amount of topsoil, sand, gravel, or other such material which is to be removed and/or added;
- 3) The purpose of such removal and/or addition;
- 4) The effect of such removal and/or addition on adjoining property;
- 5) The effect of such removal and/or addition in terms of causing a safety hazard, creation of erosion problems, altering the groundwater table and problems of this nature;
- 6) The potential for such removal and/or addition to cause the creation of sand blows, stagnant water pools, bogs, or any type of injurious area;
- 7) The effect of such removal and/or addition on the environment and the natural topography and potential destruction of a natural resource; and
- 8) Potential traffic congestion and problems from trucks or other vehicles or means being utilized to haul and transport the materials removed and/or added.

b) Material may be removed if less than one acre, and greater than 500 feet from a body of water, without authorization from the Planning Commission, provided there is compliance with all other requirements of this ordinance and provided it will not cause a sand blow, stagnant water pools, bogs, other possible future injury to adjoining properties or any other type or kind of injurious circumstance.

c) All uses shall be established and maintained in accordance with all applicable State of Michigan statutes. If any requirements of this subsection are less than those in applicable state statutes, the state requirements shall prevail.

d) No fixed machinery shall be erected or maintained within 50 feet of any property or street line. No cut or excavation shall be made closer than 50 feet to any street right-of-way line, utility easement, or property line in order to ensure sub lateral support to surrounding property.

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- e) Where it is determined by the Planning Commission to be a public hazard, all uses shall be enclosed by a fence six feet or more in height for the entire periphery of the property or portion thereof. Fences shall be adequate to prevent trespassing and shall be placed no closer than 50 feet from the top or bottom of any slope.
- f) No building shall be erected on the premises except as may be permitted by this ordinance or except as temporary shelter for machinery and field office subject to approval by the Planning Commission.
- g) 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 community. That portion of access road within the area of operation shall be provided with a dustless surface.
- h) All permitted installations shall be maintained in a neat, orderly condition so as to prevent injury to any single property, and individual or to the community in general.
- i) The permit shall contain a time limit to be set by the Planning Commission, not to exceed 24 months, and shall be renewed upon determination that the site plan and reclamation plan are being complied with.
- j) The permit shall require the removal of all installations, plants, buildings, foundations, stockpiles and equipment upon the cessation of mining or extraction operations or the expiration or revocation of a permit, within 12 months.
- k) The applicant shall provide a closure plan detailing the reclamation of the site after removal of the material. The plan shall indicate final grades and elevations, reclamation activities and future site use.
- m) As a condition to the issuance of a conditional use permit, the Planning Commission may require the posting of a performance bond issued by a corporate surety or commercial insurance carrier in such amounts that will ensure the applicant's timely compliance with all conditions of the permit.

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ARTICLE 25

SITE CONDOMINIUMS

25.01 PURPOSE

Site condominiums are developments in which land is divided into condominium units which consist of an area of land and a volume of air space within which building or other types of improvements may be constructed. Each site condominium unit may also have an appurtenant limited common element reserved for the exclusive use of the owner of the condominium unit. Either the condominium unit by itself or the condominium unit taken together with any contiguous, appurtenant limited common element, shall be considered to constitute a building site which is the functional equivalent of a “lot” for purposes of determining compliance with the requirement of the Zoning Ordinance and other applicable laws, ordinances and regulations.

Site condominiums may also include general common elements consisting of common open space, recreational areas, streets, and other areas and amenities available for use by all owners of condominium units within the development.

This chapter requires preliminary review by the Planning Commission followed by final review and approval by the Township Board of site condominium plans to ensure that site condominiums comply with this Ordinance and other applicable Township ordinances.

25.02 ADMINISTRATION AND PROCEDURE.

a) Application for review and approval of a site condominium project shall be initiated by filing with the Zoning Administrator a completed application form, payment of the application fee as set by the Township Board and submission of nine copies of the preliminary site condominium project plan which complies with Section 25.03 herein and Section 107-59(a) of the Township Subdivision Ordinance.

b) The Zoning Administrator shall review the application and the preliminary site condominium project plan to determine their completeness and to provide any appropriate comments to the Planning Commission. If the preliminary site condominium project plan and/or the application are not complete, such documents shall be returned to the applicant with a written explanation of any deficiencies.

A corrected application and/or preliminary site condominium project plan may be filed without payment of a new application fee if submitted within six months of the date of the return of the documents to the applicant. If complete, the Zoning Administrator shall forward to the Planning Commission, the application and the copies of the preliminary site condominium project plan, together with any comments.

c) The Planning Commission shall review the preliminary site condominium development plan for compliance with the standards and requirements contained in Section 24.04 herein All of the

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requirements for plats, as set forth in Ordinance 107 shall be requirements for site condominium developments.

d) As part of its review the Planning Commission shall require that the plan be submitted to the Mason County Health Department, Mason County Road Commission, Mason County Drain Commission, Michigan Department of Natural Resources, Michigan Department of Public Health, and other appropriate state and county review and enforcement agencies for their successors, to the extent that any such agency has direct authority or other oversight over any aspect of the proposed site condominium project.

e) Such review shall take place following a public hearing by the Planning Commission on the preliminary plan. Notice of the hearing shall be as required in Section 32 herein.

f) After the Planning Commission has completed its review and recommendations, the applicant shall submit to the Zoning Administrator nine copies of a final site condominium project plan which complies with the requirements of this subsection. Such final site condominium project plan submitted by the applicant shall incorporate all of the recommendations, if any, made by the Planning Commission based on its prior review of the preliminary plan.

If any of the Planning Commission's recommendations are not incorporated in the final site condominium project plan, the applicant shall clearly specify in writing which recommendations have not been incorporated and the reasons why those recommendations have not been incorporated. Except for changes made to the plan as necessary to incorporate the recommendations of the Planning Commission, the final plan shall otherwise be identical to the preliminary plan which was reviewed by the Planning Commission. Changes made to the plan other than those necessary to incorporate the recommendations of the Planning Commission shall be reviewed by the Planning Commission as provided by this section prior to approval of the plan by the Township Board.

g) The Township Board shall review the final site condominium development plan from the applicant and may approve, deny or approve with conditions the plan in accordance with the standards and requirements of this Chapter.

h) The Township Board may require that a cash deposit, certified check, irrevocable bank letter of credit, or surety bond acceptable to the board covering the estimated cost of improvements associated with the site condominium project for which approval is sought be deposited with the Township as provided by the Zoning Act (MCL 125.3101 et seq.).

25.03 CONTENTS OF SITE CONDOMINIUM PROJECT PLAN.

A site condominium project plan shall include all the information and documents required by section 66 of the Condominium Act (MCL 559.166), and by Sections 107-59(a) of the Township Subdivision Ordinance and shall also include the following:

a) The use and occupancy restrictions and maintenance provisions for all general and limited common elements that will be included in the master deed. Any provisions for time-share units, time-share estates, time-share licenses, leasehold condominiums, or other restrictions or regulations concerning co-ownership, short term rental, leasing or temporary occupancy of condominium units that shall be included in the master deed.

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- b) A storm drainage and stormwater management plan, including all lines, swales, drains, basins, and other facilities and easements granted to the appropriate municipality for installation, repair, and maintenance of all drainage facilities.
- c) A utility plan showing all water and sewer lines and easements granted to the appropriate municipality for installation, repair, and maintenance of all utilities.
- d) A narrative describing the overall objectives of the proposed site condominium project.
- e) A narrative describing the proposed method of providing potable water supply, waste disposal facilities, and public and private utilities.
- f) A street construction, paving and maintenance plan for all public and private streets within the proposed condominium project.
- g) A schedule for the dates of the completion of the construction and/or installation of utilities and streets.

25.04 STANDARDS AND REQUIREMENTS FOR REVIEW.

An application and the submitted plans for approval of a site condominium project shall be reviewed in accordance with the standards for site plan review under this ordinance, the Design Standard requirements of Sections 107.80-88 of the Township Subdivision Ordinance as applicable and the following standards and requirements:

- a) In its review of a site condominium project plan, the Planning Commission may consult with the Zoning Administrator, Township Attorney, Township Engineer, Township Fire Chief, Township Planner, or other appropriate persons regarding the adequacy of the proposed common elements and maintenance provisions, use and occupancy restrictions, utility systems and streets, project layouts and design, or other aspects of the proposed project, and compliance of the proposed project with all requirements of the Condominium Act (MCL 559.101 et seq.) or other applicable laws, ordinances, or regulations.
- b) The building site for each site condominium unit shall comply with all applicable regulations of the zoning district in which it is located, including, without limitation, minimum lot area, minimum lot width, required front, side, and rear yards, and maximum building height.

For example, the area and width of the building site shall be used to determine compliance with the minimum lot area and lot width requirements. Compliance with required front, side, and rear yards shall be determined by measuring the distance from the equivalent front, side, or rear yard boundaries of the building site to the closest respective front, side, or rear boundary of the building envelope. With regard to building height, the condominium documents shall expressly provide that no building shall exceed the maximum building height permitted by the applicable zoning district regulations.

- c) Public Streets. If a site condominium project is proposed to have public streets, the streets shall be paved and developed to the minimum design, construction, inspection, approval, and maintenance requirements for platted public streets as required by the Mason County Road Commission and shall be appropriately dedicated to the public.

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d) Private Streets. All private streets in a site condominium project shall be developed in accordance with the requirements of Section 3.45 herein.

e) Water and Sewer System Availability.

1) A site condominium project, proposed to be located in the Township areas north of the Pere Marquette River, shall be connected to the Township's public water system and public sanitary sewer system, if available. For purposes of this section, the Township's public water and/or public sanitary sewer system shall be deemed to be available if a water main or a sanitary sewer line to which connection can be made (in light of capacity, engineering, and other requirements) is located within 2,700 feet of the site condominium project's nearest entrance.

2) For a site condominium project proposed to be located in an area of the Township south of the Pere Marquette River, the Township's public water and public sanitary sewer systems are not available. However, at such time as the Township's water system or sanitary sewer system may be extended by the Township to areas south of the Pere Marquette River, proposed projects shall comply with subsection (e)(1) of this section.

3) In the event that the Township extends its water system and/or its sewer system so that it becomes available, as determined under subsection (e)(1) of this section, to any existing site condominium project, then such project shall be required to connect to such available system as is otherwise provided by applicable law, ordinance or regulation. However, no connection to the Township water system and/or sewer system is required so long as the private water and/or sewer system continues to receive approval permits from the Mason County Health Department and Michigan Department of Environment, Great Lakes and Energy.

4) If the Township's water system and/or the sanitary sewer system is not available to provide service to a site condominium project, the project shall be served by privately owned water and septic/sewage systems (for individual lots or for a community system) that have received all necessary approvals and permits by the State, the Mason County Health Department and/or the Township in accordance with applicable standards and rules.

f) A streetlight shall be installed at each intersection where the streets developed as part of the site condominium project intersect with a previously established public road or street.

g) Sidewalks. Sidewalks shall be installed in accordance with the requirements of Article 30 of this Ordinance.

25.05 CONSTRUCTION IN COMPLIANCE WITH APPROVED FINAL SITE CONDOMINIUM PROJECT PLAN.

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

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25.06 COMMENCEMENT OF CONSTRUCTION; ISSUANCE OF PERMITS.

No construction, grading, tree removal, soil stripping, or other site improvements or changes shall be commenced by any person, and no building, construction, or grading permits shall be issued by the building inspector for a site condominium project until:

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

25.07 EXPANDABLE OR CONVERTIBLE CONDOMINIUM PROJECTS.

Approval of a final site condominium project plan shall not constitute approval of expandable or convertible portions of a site condominium project unless the expandable or convertible areas were specifically reviewed and approved by the Township Board in compliance with the procedures, standards, and requirements of this section.

25.08 REVISIONS OF APPROVED FINAL SITE CONDOMINIUM PROJECT PLAN.

Any change proposed in connection with a development for which a final site condominium plan has previously been approved shall be regulated by this section.

The following definitions shall apply:

a) “Exempt change” means a change to a site condominium project (other than a major or minor change) that is exempt from review and approval as required for major or minor changes under this chapter. Exempt changes shall be limited to the following:

- 1) A change in the name of the development; in the name of a street within the development; or in the name of the developer;
- 2) A change in the voting rights of co-owners or mortgagees; or
- 3) Any other change in the site condominium development which, as determined by the Zoning Administrator, does not constitute a major or minor change or will not otherwise change the site configuration, design, layout, topography or any other aspect of a development which is subject to regulation under the Zoning Ordinance.

b) “Major change” means a major change in the site configuration, design, layout or topography of a site condominium development (or any portion thereof), including any change that could result in:

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

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c) “Minor change” means a minor change in the site configuration, design, layout or topography of a site condominium development (or any portion thereof), including any change that will result in:

- 1) A decrease in the number of site condominium units;
- 2) A reduction in the area of the building site for any site condominium unit;
- 3) A reduction of less than 10 percent in the total combined area of the general common elements of the site condominium;
- 4) A reduction in the total combined area of all limited common elements of the site condominium;
- 5) Any other minor variation in the site configuration, design, layout, topography or other aspect of the development which is subject to regulation under this Zoning Ordinance, and which, as determined by the Zoning Administrator, does not constitute a major change.

Any change which constitutes a major change shall be reviewed by the Planning Commission, at a public hearing and with the notice required for an original approval of a site condominium development, and shall also be reviewed and approved by the Township Board, as provided in this chapter for the original review and approval of preliminary and final plans.

Any change which constitutes a minor change shall be reviewed and approved by the Zoning Administrator, in conjunction with the chairperson of the Planning Commission. In the discretion of the Administrator and Chairperson, any such minor change may be reviewed and approved by the Planning Commission, at a public meeting, but without the public hearing or mailed notice requirement otherwise provided in this chapter for an original approval.

Any change which constitutes an exempt change shall not be subject to review by the Township under this chapter, but a copy of the exempt changes shall be filed with the Zoning Administrator.

25.09 INCORPORATION OF APPROVED PROVISIONS IN MASTER DEED.

All provisions of a final site condominium project plan which are approved by the Township Board as provided by this section shall be incorporated, as approved, in the master deed for the site condominium project. A copy of the master deed as filed with the Mason County Register of Deeds for recording shall be provided to the township within ten days after filing the plan with the county.

25.10 VALIDITY OF APPROVAL

Construction of an approved site condominium development shall commence within two years after such approval and be diligently pursued to completion in accordance with the terms and conditions of the approval. Such two-year period may be extended by the Township Board in its discretion, for additional periods of time as determined appropriate by the Board. Any such extension shall be applied for by the applicant within such two-year period.

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25.11 EXEMPTION OF EXISTING PROJECTS.

This section shall not apply to a site condominium project which is determined by the Township Board to have met the following conditions as of the effective date of this section (an existing project):

- a) A condominium master deed was recorded for the project with the Mason County Register of Deeds in accordance with the requirements of the Condominium Act (MCL 559.101 et seq.) and other applicable laws and ordinances; and
- b) The existing project fully complies with all other applicable requirements under township ordinances in effect on the date when the condominium master deed was recorded.

The exemption provided by this section shall apply only to an existing project precisely as described in the condominium master deed recorded for the existing project on the effective date of this section, and not to any subsequent expansion, conversion, or re-platting of the existing project or subsequent modification or amendment to the master deed, all of which shall be fully subject to the review and approval requirements as provided by this section.

25.12 VARIANCES

A variance from the site condominium provisions and requirements of this chapter shall be processed according to the requirements of Section 107-26 of the Township Subdivision Ordinance. However, variances for the specific site development standards of the zoning district in which the project is located such as lot width, lot setbacks and similar standards shall be considered by the Township Zoning Board of Appeals in accordance with the requirements of Chapter 32 herein.

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ARTICLE 26

LANDSCAPE REQUIREMENTS

26.01 PURPOSE.

The purpose of this article is to promote the public health, safety and welfare by establishing minimum standards for the design, installation and maintenance of landscaping in parking lots, as greenbelts between uses and along roadways. Landscaping is considered by the Township to be an important element of land development and is a critical factor in maintaining an attractive community character and conserving the value of land and buildings in the Township. Landscaping also serves to buffer incompatible land use, moderate harsh or unpleasant sounds, remove air pollutants, reduce the glare from vehicle headlights and separate vehicular and pedestrian circulation.

The landscape standards of this article are considered the minimum necessary to achieve the objectives noted above. In several instances, the standards are intentionally flexible to encourage flexibility and creative design. Applicants are encouraged to provide additional landscaping to improve the function, appearance and value of their property.

26.02 APPLICABILITY:

- a) The standards contained in this article shall be applicable to any site plan, conditional land use request, or PUD submitted for review and approval under this Article.
- b) The regulations of this article shall not apply to individual single-family and two-family dwelling units.
- c) Modification of Required Landscaping. For existing and proposed uses that require site plan approval to either expand or to be built, landscaping shall be installed insofar as practical. The Planning Commission, in its review of the site plan, has the authority to increase, decrease or otherwise modify the landscaping and screening requirements of this article. In doing so, the Commission shall consider the following criteria:
- 1) The amount of space on the site available for landscaping.
 - 2) Existing landscaping on the site and on adjacent properties.
 - 3) The type of use on the site and size of the development.
 - 4) Existing and proposed adjacent land uses.
 - 5) The effect the required landscaping would have on the operation of the existing or proposed land use.
 - 6) Whether additional landscaping is necessary to mitigate the adverse effects of adjoining land uses, to reduce headlight glare, reduce noise and to otherwise achieve the objectives of this Section.

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26.03 GENERAL REGULATIONS

- a) All landscaping required by this Article shall be planted before obtaining a Certificate of Occupancy or the appropriate financial guarantee may be placed in escrow in the amount of the cost of landscaping to be released only after landscaping is completed. A temporary Certificate of Occupancy may be issued for projects needing additional time for planting the approved landscaping elements based on seasonal limitations.
- b) All landscaping shall be hardy plant materials and maintained thereafter in a neat, healthy and orderly manner. Withered and/or dead plant materials shall be replaced within a reasonable period of time upon written notice from the Zoning Administrator or within an extended time period as specified in said notice.
- c) For the purpose of this article, a corner lot is considered as having a front yard along each street, and the applicable landscaping shall be provided for both yards.
- d) An underground irrigation system shall be installed to serve all grass areas including grassed landscape islands.
- e) Required plant materials and screening shall be arranged to avoid conflicts with underground and overhead utility lines and access to or visibility of fire hydrants. The anticipated height at maturity of trees planted near overhead utility lines shall not exceed the utility line height.
- f) Landscaping shall be arranged so as not to obscure traffic signs or obstruct drivers' sight distance within the parking area and at driveway entrances.

26.04 GREEN BELT REQUIREMENTS

- a) Greenbelt Location.
- 1) Wherever a non-residential zone as defined herein abuts an A/R, R-1, R-2, or PUD zone containing residential uses zone.
- 2) Wherever a non-residential zone as defined herein abuts a non-conforming residential use such as a house in a non-residential zone.
- 3) Wherever a non-residential use such as a governmental building, church, school, hospital, or library which may be allowed in a residential zone abuts a residential use or an A/R, R-1 or R-2 zone; or R-2 zone or a dwelling unit on adjoining property.
- 4) The greenbelt shall be installed along the abutting lot line separating the different zoning districts.
- 5) Greenbelt landscaping requirements shall not apply where zoning districts are separated by a public street. In such case, the front yard landscaping requirements of this article shall apply.
- b) Width and Planting Requirements for Green Belts.
- 1) A greenbelt shall be a minimum of 15 feet wide.

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2) For each whole 20 linear feet abutting the adjacent property, one tree shall be planted within the greenbelt. Such trees shall be a mixture of evergreen, canopy and ornamental trees unless otherwise required by the Planning Commission.

3) Two shrubs shall be planted for each tree planted and each shrub shall be a minimum of 30 inches at planting.

c) Plant Spacing and Size Requirements.

1) Plant materials shall not be placed closer than six feet from the fence line or property line.

2) Evergreen trees shall be planted not more than 20 feet on center and shall be not less than four feet in height at planting.

3) Ornamental trees or tree-like shrubs shall be planted not more than 10 feet on center and shall not be less than four feet in height at planting.

4) Deciduous shrubs shall be planted not more than four feet on center and shall not be less than 30 inches in height at planting.

5) Deciduous trees shall be planted not more than 25 feet on center and shall not be less than two inches in caliper measured at breast height at planting

26.05 PERMITTED AND PROHIBITED PLANTINGS

a) Types of trees permitted to be planted within the required landscaped areas shall include but not be limited to the following:

1) Canopy tree examples: Maples, Honey Locust, Sycamore, Oak, Linden, and Callery Pear;

2) Ornamental tree examples: Redbud, Hawthorn, Crabapple, Dogwood, Plum, Serviceberry;

3) Evergreen tree examples: Norway Spruce, Austrian Pine, White Pine, Colorado Spruce, Hemlock;

4) Deciduous shrub examples: Viburnum, Euonymus, Spiraea, Forsythia;

5) Evergreen shrub examples: Yew, Juniper, Inkberry, Arborvitae.

b) The following trees are prohibited from being planted within the required landscaped areas:

1) Ailanthus (Tree of Heaven);

2) Elm trees, except disease resistant cultivars, such as ‘Regal’, ‘Pioneer’, ‘Homestead’, ‘Jacan’ and ‘Accolade’;

3) Acer saccharinum (Soft/Silver Maple);

4) Salix (Willows);

5) Populus (Poplars);

6) Aesculus (Horse Chestnut);

7) Acer negundo (Box Elders);

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- 8) Catalpa;
- 9) Elaeagnus
- 10) Ginkgo biloba;
- 11) Robinia pseudoacacia (Black Locust);
- 12) Morus (Mulberry);
- 13) Fraxinus (Ash Tree); and
- 14) Gleditsia Triacanthos (Honey Locust with thorns).

26.06 FRONT YARD LANDSCAPING

Except for necessary driveways, frontage roads, service drives or walkways, the front yard shall be landscaped according to the following minimum requirements:

- A strip of land at least five feet in width containing a solid screen comprised of a year- round vegetative hedge or decorative wall, or any combination thereof, which measures at least three feet in height: or
- A strip of land at least ten feet in width within which for each 50 feet in length of road frontage two trees shall be planted. A mixture of evergreen, canopy and ornamental trees is encouraged to provide a variety of plantings along the street. Driveways shall not be counted in the determination of road frontage;
- Shrubs at a rate of one per each tree required;
- Earthen berms may be permitted within the required front yard landscape area. Credit of up to 25 percent may be received against providing the required plantings through the use of berms three feet in height or greater.

26.07 PARKING LOT LANDSCAPING

All parking areas having 10 or more parking spaces shall be landscaped according to the following minimum requirements:

- 1) One canopy tree for every 20 parking spaces, with a minimum of two trees, shall be planted adjacent to and within the parking area;
- 2) Trees shall be located to prevent damage by motor vehicles;
- 3) Landscaping islands shall be dispersed through the parking lot in order to break up large expanses of paved surfaces and improve traffic flow and line of sight for drivers. Each landscape island shall be a minimum of six feet wide and shall contain at least one canopy tree;
- 4) Landscaping shall be arranged so as not to obscure traffic signs or fire hydrants, or obstruct drivers' sight distance within the parking area and at driveway entrances.
- 5) All landscape areas shall be protected by raised curbs, parking blocks or other similar

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methods;

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- 6) Landscaping required for greenbelts and front yard landscaping that abuts off-street parking areas may substitute for up to 50 percent of the required parking lot landscaping;
7. Evergreen trees shall not be planted within the parking lot or within 50 feet of any driveway.

26.08 BERMS, WALLS AND FENCES

- a) If a berm is used for all or part of the greenbelt or front yard landscaping, required plant material quantities may be reduced by 25 percent. The berm shall not exceed four feet in height. All plant materials shall be placed along the top and exterior side slope of the berm. The greenbelt width shall be increased as needed to accommodate maximum berm side slopes of one-foot vertical rise to three feet horizontal.
- b) Berm areas shall be covered with grass or other living ground cover.
- c) Berms shall be constructed so as not to negatively affect drainage patterns on adjacent properties.
- d) A screen wall or solid fence may be used for all or part of the greenbelt subject to Planning Commission approval. If a solid fence or screen wall is used, the following regulations shall apply.
- 1) Required quantities of plant materials may be reduced by fifty (50%) percent for that area abutting the fence or wall.
 - 2) The fence or wall shall comply with the applicable regulations of the Ordinance for height and materials.

26.09 SCREENING FOR OUTDOOR SOLID WASTE DUMPSTERS.

Outdoor solid waste dumpsters shall be screened by a continuous opaque screen at least six feet high. The screen may be comprised of berms, plant material, solid walls or fences or any combination of these elements. Dumpsters may be installed within a greenbelt area.

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ARTICLE 27

PARKING REQUIREMENTS

27.01 PURPOSE

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

27.02 GENERAL REQUIREMENTS

a) At the time any building or structure is erected, enlarged, or increased in capacity, or when any use is established, off-street parking and loading spaces shall be provided in all zoning districts according to the requirements of this Article.

b) No parking or loading area or space which exists at the time of the adoption of this Chapter shall thereafter be relinquished or reduced in any manner below the requirements established by this Article.

c) Definitions: For purposes of determining off street parking requirements the following definitions shall apply:

1) Gross Floor Area - The sum of all gross horizontal areas of all floors of a building or buildings, measured from the outside dimensions of the outside face of the outside wall. Unenclosed porches, court yards, or patios shall not be considered as part of the gross floor area except where they are utilized for commercial purposes such as the outdoor sale of merchandise or seating for a restaurant.

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

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

d) Parking lots shall be designed to avoid vehicles backing onto a street or onto or across a public walk.

e) Units of Measurement

1) For requirements stated in terms of employees, the calculation shall be based upon the maximum number of employees likely to be on the premises during the largest shift.

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2) When units of measurement determining the number of required parking spaces result in a requirement of a fractional space, any fraction up to one-half shall be disregarded and any fraction of one-half or greater shall be construed to mean one space, unless otherwise specified.

f) Shared Parking and Mixed Occupancy

1) In the case of mixed uses in the same building or on the same lot or parcel, the total requirements for off-street parking and loading shall be the sum of the requirements for the individual uses computed separately.

2) In instances of joint use of off-street parking facilities by several properties during nonoverlapping time periods the planning commission may approve some aggregate amount which is less than the sum of the requirements of the individual uses, if a signed agreement is provided by the property owners, and the planning commission determines that the peak usage will occur at different periods of the day. Said agreement shall be in recordable form, recorded, and run with the land as a burden thereon. Any modification must be approved in writing by the Township planning commission.

g) Parking Requirements for Uses Not Listed: The minimum parking space requirements for all uses shall be as listed in 27.06. For uses not specifically listed in Section 27.06 the Zoning Administrator may establish the parking requirement by making the determination that the proposed use is similar in parking requirements to a use which is listed in Section 27.06. The Zoning Administrator shall refer to engineering or planning manuals, publications and reports, or to the parking requirements used by other municipalities in order to determine the minimum parking requirements.

h) Maximum Amount of Parking: In order to minimize excess areas of pavement which result in adverse aesthetic impacts and contribute to high rates of storm-water runoff, off-street parking lots exceeding the minimum parking space requirements by greater than 20 percent shall be prohibited, unless the applicant can demonstrate that additional parking is necessary to the operation of the proposed use. Factors to be considered in such demonstration shall include but need not be limited to the type of use proposed, examples of similar uses requiring such additional parking and whether such additional parking is for seasonal or peak periods only.

i) Conformance to Parking Plan: Once a parking area has been approved as part of an approved site plan the owners, operators, or tenants shall conform at all times to the requirements of the approved plan including maintaining the parking lot in good working order and appearance.

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

k) Permit Required: A zoning permit must be obtained from the Zoning Administrator before an off-street parking area is enlarged or re-constructed. The applicant shall provide a site plan to the Zoning Administrator who shall review it for compliance with the site plan requirements of this Ordinance. The Zoning Administrator may refer the site plan to the Planning Commission for review and approval. Parking lots which are only being repaved or which were part of a site plan already approved by the Planning Commission are exempt from this requirement.

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l) Landscaping: Landscaping for off street parking lots shall be provided as required by Article 26 herein.

27.03 LOCATION OF PARKING AREAS

a) For all residential uses the number of parking spaces required by this Article shall be located on the same lot or parcel as the dwelling unit served. For purposes of this Section adjoining lots or lots separated by a public or private street if such lots are under the same ownership then they shall be considered as one lot.

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

c) Parking areas shall be located in the same zoning district as the property it serves.

27.04 DESIGN AND CONSTRUCTION REQUIREMENTS

The following regulations shall apply to all uses except one and two-family dwellings.

a) Parking Lot Surface and Drainage:

1) For required parking lots in all zoning districts the parking lot and all drives and driveways serving the parking lot shall be surfaced with asphalt or concrete pavement.

2) All parking lots shall be graded and drained to dispose of all surface water and prevent drainage onto abutting properties.

3) The Planning Commission may approve alternate parking lot surfaces which are dustless and which allow for stormwater drainage directly through the parking surface or other similar surface.

4) In order to reduce the amount of impervious surface and the corresponding storm water runoff and reduce heat given off by paved surfaces, the Planning Commission may approve alternate parking lot surfaces for overflow parking, or employee parking, or parking or maneuvering areas devoted to loading activities or parking for trucks or similar heavy equipment. Such surface may include but shall not be limited to gravel, crushed stone, or products which are installed in the ground to support a vehicle but allow grass to grow within the supporting spaces or similar dustless material.

b) Lighting: Lighting fixtures used to illuminate off-street parking areas shall be so arranged as to deflect the light away from any adjoining residential properties or streets and highways. Lighting fixtures in required parking facilities for commercial, industrial, or office districts within 150 feet of any residential area shall not exceed 20 feet in height. All other fixtures shall not exceed 35 feet in height. Light fixtures shall be designed to achieve total luminary cutoff.

c) Parking Lot Setback: All off-street parking areas shall be set back a minimum of five feet from the rear and side lot lines, and a minimum of 25 feet from the front lot line. The Planning Commission may approve a setback of less than 25 feet if the minimum number of parking spaces required by the Zoning Ordinance for the proposed use is no more than 10 or if the applicant can demonstrate that there is insufficient space on site to provide the 25 feet setback

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and still allow for the efficient operation of the proposed use. In approving a lesser setback, the Commission may require additional landscaping.

d) Traffic Islands: Parking areas shall be designed to delineate access aisles or drives and to provide drivers proper sight distance at the end of parking rows where such rows intersect access aisles or drive. The Planning Commission may require traffic islands, striped pavement or other methods to achieve this.

e) Pedestrian Protection: Parking lots shall be designed to limit the number of points where pedestrians must cross in front of vehicles. In particular, vehicle access in front of building entrances and exits should be minimized. Landscaped pedestrian walkways to and from parking areas may be required to enhance pedestrian safety.

f) Screening of Parking Area: Where off-street parking areas for non-residential uses abut residentially zoned property, a greenbelt not less than 15 feet wide shall be provided between the parking area and the residentially zoned property. The greenbelt shall be landscaped according to the landscape requirements of Article 26 of this Ordinance. A solid fence instead of landscaping may be required by the Planning Commission, if in the opinion of the Commission, the fence will serve as a more effective buffer.

g) Driveways:

1) Driveways serving off-street non-residential parking areas shall be at least 20 feet from any residentially zoned property or a residential use such as a single-family dwelling.

2) Such driveways shall be a minimum of 24 feet wide for two-way traffic and a minimum of 13 feet wide for one-way traffic.

h) Snow Storage: Snow shall not be stored in areas with plantings or where it may create visibility problems for drivers or pedestrians.

i) Uses Not Permitted: Off-street parking areas shall not be used for repair, dismantling or servicing of motor vehicles.

j) Barrier Free Spaces: Off street parking lots shall be designed in accordance with the Barrier Free Design Requirements of Public Act No. 230 of 1972 (MCL 125.1501 et seq.).

27.05 REQUIREMENTS FOR SIZE OF PARKING SPACE AND AISLE

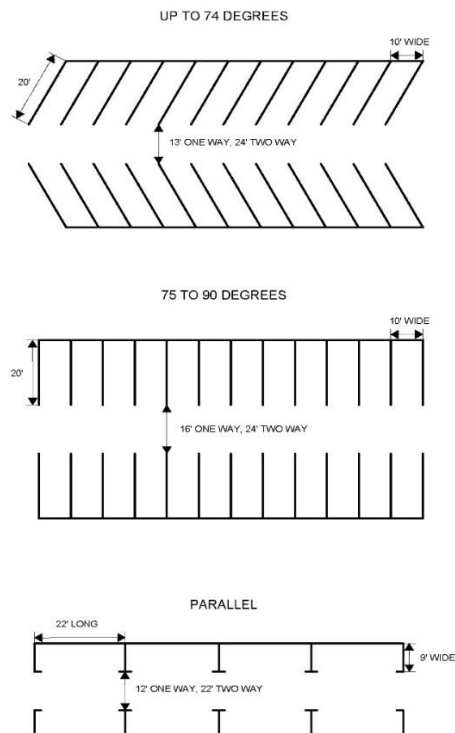
Off-street parking spaces and aisles for various parking angles shall be designed and constructed in accordance with the minimum standards provided in Table 1 below:

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TABLE 1
MINIMUM STANDARDS FOR PARKING STALL AND AISLES

Parking Angle	Maneuvering Aisle Width		Parking Stall Width	Parking Stall Length	Total width of Two Stalls of Parking Plus Maneuvering Aisle	
	One Way	Two Way			One Way	Two Way
0° Parallel	12 feet	22 feet	9 feet	22 feet	30 feet	40 feet
Up to 74°	13 feet	24 feet	10 feet	20 feet	56 feet	58 feet
75° to 90°	16 feet	24 feet	10 feet	20 feet	36 feet	64 feet

Parking spaces and aisles shall be designed as shown below. (Note: Parking widths are measured from center of line to center of opposite line.)



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27.06 SCHEDULE OF OFF-STREET PARKING REQUIREMENTS

Each use shall provide spaces in conformance with the following schedule of requirements:

<u>Use</u>	<u>Number of Motor Vehicle Parking Spaces Required per Unit of Measure</u>
a) RESIDENTIAL	
Single family and two family	Two for each dwelling unit.
Multiple family and attached single family:	One per bedroom plus ten percent of the total spaces required shall be provided as guest parking.
Efficiencies	One for each dwelling unit.
Mobile Home Parks	Two for each mobile home or mobile home site.
Senior housing or retirement communities.	One for each dwelling unit plus one per employee
Assisted living and congregate care facilities.	One for each three dwelling units plus one per employee
Bed and breakfast, boarding houses.	One for each guest room plus two for the dwelling unit.
b) INSTITUTIONAL / PUBLIC ASSEMBLY	
Churches, temples, mosques, synagogues, or similar types of facilities.	One space per each four seats in the worship room.
Hospitals.	One for each four beds plus one for each staff doctor, plus one for each two employees other than doctors.
Outpatient care stations.	Two spaces per exam room/station or procedure/operating room, plus one space per laboratory or recovery room plus one per employee.
Child Care Centers.	One space for every four children of licensed capacity, plus one space for each employee.

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Elementary, junior high, middle schools.

Two spaces per classroom, plus one space for each three seats of maximum seating capacity for that indoor place of assembly having the greatest seating capacity or .12 spaces per student whichever is greater

High schools, trade schools

.25 spaces per student

Private club and lodges.

One space per 2.5 persons allowed within the maximum occupancy load as established by the appropriate fire, health, or building code.

Auditoriums (non-school), stadiums, and sports arenas.

One space per each three seats.

Conference rooms, exhibit halls, halls, ballrooms, civic clubs, or similar place of assembly without fixed seats whether public or private.

One space per each four persons allowed within the banquet maximum occupancy load as determined by the Township building or fire codes.

Libraries, museums, and non-commercial art galleries.

One parking space per 400 square feet of gross floor area.

c) OFFICES

Medical/dental clinics or offices.

Four spaces per 1,000 square feet of gross floor area. A minimum of six spaces shall be required.

General office buildings.

Four spaces per 1000 square feet of gross floor area. A minimum of four spaces shall be required.

Banks, credit unions, or savings and loans.

Four spaces per 1,000 square feet of gross floor area, plus two on-site waiting spaces for each drive-up window or drive through automatic teller.

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d) RETAIL AND SERVICES USE

Retail shopping centers, discount stores, and department stores containing between 5,000 and 400,000 square feet.

Four spaces per 1,000 square feet of usable floor area.

Other retail uses not otherwise specified herein.

One space per 200 square feet of usable floor area plus one per employee.

Supermarkets and grocery stores.

One space per 200 square feet of usable floor area.

Personal service establishments not otherwise provided herein.

One space per each 300 square feet of usable floor area plus one per employee.

Appliance stores.

Four spaces per 1,000 square feet of gross floor area. A minimum of six spaces shall be required.

Automobile service stations.

Two parking spaces per each service bay, plus one per each employee, plus one per each 200 square feet of retail area. A service bay and the area on each side of a gas pump may count as a parking space.

Vehicle wash establishments (automatic).

One parking space per each employee, plus ten on-site waiting spaces at each wash-bay entrance, plus two drying spaces at the exit.

Vehicle wash establishments (self-service or “touchless” facilities).

One parking space per each employee, plus two on-site waiting spaces at each wash-bay entrance.

Barber shops, beauty salons.

Two for each barber or beauty operator chair/station plus one for every two employees.

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Building supply store, home improvement store, paint and hardware store containing up to 25,000 square feet of gross floor area.	Two spaces per 1000 square feet of gross floor area plus one for each employee.
Building supply store, home improvement store, paint and hardware store with more than 25,000 square feet of gross floor area.	Three spaces per 1,000 square feet of gross floor area plus one for each employee.
Convenience stores.	Four spaces per 1,000 square feet of gross floor area. A minimum of six spaces shall be required.
Dry cleaners.	Two spaces per 1,000 square feet of gross floor area. A minimum of four spaces shall be required.
Funeral homes and mortuaries.	One space per 50 square feet of parlor and chapel areas.
Furniture, carpet, and home furnishing stores.	One space per 800 square feet of usable floor area.
Hotel, motel, or other commercial lodging establishment.	One space for each guest room, plus one for each two employees.
Laundromats.	One space per each three washing machines.
Mini-storage houses/warehouses.	Six spaces.
Motor vehicle dealerships.	One space per 5,000 square feet of outdoor sales area, plus one space per sales desk/office, plus three spaces per service bay. A minimum of six spaces shall be required.
Quick oil change establishments.	Two spaces per bay plus one per each employee.
Recreational vehicle and boat dealerships.	One space per 800 square feet of gross floor area, plus two spaces per each vehicle service bay. A minimum of six spaces shall be required.

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Restaurants that serve non-fast food and have no drive-through window.	Twelve spaces per 1,000 square feet of gross floor area, or 0.4 spaces per seat, whichever is greater.
Restaurants that serve mostly take out, with six or less booths or tables.	Six spaces plus one for each employee.
Restaurants that serve fast food and have no drive through window.	Eight spaces per 1,000 square feet of gross floor area.
Restaurants that serve fast food and have a drive through window and indoor seating.	Ten spaces per 1,000 square feet of gross floor area, plus three designated drive through waiting spaces.
Pharmacies with or without a drive-up window	Two- and one-half spaces per 1000 square feet of gross floor area.
Video rental stores.	Three spaces per each 100 square feet of gross floor area plus one per each employee.
Service companies doing repair.	Two spaces per 1,000 square feet of work gross floor area. A minimum of five spaces shall be required.

e) RECREATIONAL ENTERTAINMENT

Arcades.	One space for every 70 square feet of gross floor area. A minimum of six spaces shall be required.
Batting cage facilities.	Three spaces per cage.
Bowling centers.	Five spaces per bowling lane plus 50 percent of the spaces otherwise required for accessory uses such as restaurants, bars, banquet facilities, etc.
Golf driving ranges.	One and one-half spaces per tee.
Golf courses, miniature.	One and one-half spaces per each hole.
Golf courses, par-three.	Three spaces per hole.

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Golf courses.	Five spaces per hole.
Health fitness centers.	Five spaces per 1,000 square feet of gross floor area.
Movie theaters.	One space per each four seats.
Racquetball and tennis centers.	Five spaces per 1,000 square feet of gross floor area or six spaces per court, whichever is greater.
Public recreation centers.	Five spaces per 1,000 square feet of gross floor area.
Roller/ice skating rink.	Six spaces per 1,000 square feet of gross floor area.

f) **INDUSTRIAL USES**

Manufacturing, light industrial, and research establishments and other industrial uses not otherwise specified herein.	One and one-half parking space per 1,000 square feet of gross floor area.
Wholesale, warehouses, or distribution facilities, and trucking terminals.	One per employee.

g) Parking Variation: In order to avoid excessive amounts of impervious surface and to allow for an opportunity to provide parking which meets the demonstrated needs of a proposed use, the Planning Commission may approve a development which provides less than the minimum number of parking spaces required herein according to the following requirements:

- 1) The applicant must provide written evidence to the Planning Commission that the parking proposed on the site for the use is sufficient to meet the parking needs of those who will patronize the use as well as the parking needs for employees during the largest working shift.

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Such evidence may consist of: arrangements for nearby shared parking; evidence that the proposed use will also be patronized by pedestrians or by those using bus service or; evidence from the parking history of the proposed use or a use similar to the proposed use at other locations or; that there is sufficient space on the site for the required parking to be provided if it becomes necessary at a later time.

2) If a plan is approved to allow fewer parking spaces than required by Section 27.06 above such parking plan shall only apply to the stated use. Any other use shall comply with the requirements of Section 27.06 before an occupancy permit is issued or such use shall first obtain approval from the Planning Commission in accordance with Section 27.06(h) before an occupancy permit is issued.

27.07 BARRIER FREE PARKING AND DESIGN REQUIREMENTS

Barrier free parking shall be provided as follows:

<u>Total Parking in Lot</u>	<u>Minimum Number of Accessible Spaces Required</u>
1 to 25	1
27 to 50	2
51 to 75	3
76 to 100	4
101 to 150	5
151 to 200	6
201 to 300	8
301 to 400	12
401 to 700	14
701 to 1,000	1 per 50 spaces provided or fraction thereof
Over 1,000	20 plus 1 per 100 over 1,000 or fraction thereof.

Requirements for barrier free parking space size, ramps, and signs shall be as required by the State of Michigan Barrier Free Design Act as amended.

27.08 OFF-STREET LOADING REQUIREMENTS

- a) Off-street loading spaces shall be provided in size and quantity sufficient to prevent interference with adjacent streets or required off-street parking areas.
- b) Loading spaces shall be illustrated on the site plan if provided.

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- c) Loading spaces shall not be located within the driving aisle of the parking lot and a vehicle in the process of being loaded or unloaded shall not block the movement of vehicles on the site.
- d) Loading spaces shall not be included in the count of off-street parking spaces.
- e) Loading spaces shall not use any portion of any public right-of-way.
- f) Maneuvering space for trucks using the loading spaces shall be provided on-premise and shall not necessitate the use of public right-of-way.
- g) Loading docks shall be a minimum of 100 feet from the front lot line as measured to the loading dock. This shall apply to both front yards on each street side of a corner lot.
- h) The design, location, and screening of off-street loading areas shall be reviewed at the time of Site-Plan approval to ensure adequate protection is afforded adjacent properties, especially residential districts.
- i) Off-street loading spaces shall be no closer than 50 ft. to any Residential Zone unless such space is within a completely enclosed building or enclosed on all sides by a wall or a uniformly painted solid board or masonry fence of uniform appearance not less than six feet in height.

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ARTICLE 28

SIGNS

28.01 PURPOSE & INTENT

a) This Article is intended to regulate the size, number, location and manner of display of signs in the Pere Marquette Charter Township consistent with the following purposes.

- 1) To protect and further the health, safety and welfare of residents, property owners, and visitors.
- 2) To prevent traffic hazards and pedestrian accidents caused by signs which obstruct vision, distract or confuse drivers, or are improperly secured or constructed.
- 3) To conserve and enhance community character.
- 4) To promote uniformity in the size, number, or placement of signs within zoning districts.
- 5) To promote the economic viability of commercial areas by minimizing visual clutter and allowing for placement of signs to safely direct motorists to their destination.
- 6) To balance the public's right to be informed and its desire to avoid visual pollution and hazardous conditions with the communication rights of businesses and other non-business uses.
- 7) To recognize that special circumstances or events may create a need for temporary signage for a limited and reasonable period of time.
- 8) The purpose of this Article does not include the regulation of the content or any information included on the sign.

b) Substitution Clause. Signs which contain non-commercial speech are permitted anywhere that advertising or business signs are permitted subject to the same regulations applicable to such signs. The owner of any sign which is otherwise allowed by this Article may substitute non-commercial language in lieu of any other commercial or non-commercial language. This substitution may be made without any additional approval or permitting. The purpose of this provision is to prevent an inadvertent favoring of commercial speech over non-commercial speech or favoring of any particular non-commercial message over any other non-commercial message.

28.02 DEFINITIONS

Abandoned sign: A sign which no longer identifies or advertises a currently operating business, lessee, service, owner, product, or activity, and/or for which no legal owner can be found

Balloon Sign: (See inflatable sign)

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Banner Sign: A portable sign of fabric, nylon, plastic, or other non-rigid material without an enclosing structural framework attached to or hung from a pole or rope or to a building or structure. Banner signs also mean include flag signs, feather flags, and flutter flag signs.

Commercial Establishment: A business operating independent of any other business located in a freestanding building; in a strip mall, a business completely separated from other businesses by walls from the ground up and with a door which may regularly be used by the public for exclusive ingress and egress to that business; in an enclosed structure with a shared climate controlled area, a business completely separated from other businesses by walls from the ground up and with a door or entrance which may regularly be used by the public for exclusive ingress and egress to that business and which may be closed to the public even while the common area is open to the public; and in an office building, a business holding itself out to the public as a single entity, independent of other businesses or persons.

Directional Sign: A sign used primarily to give information about locations or possible destinations to a driver of a motorized vehicle, a pedestrian, bicyclist or others. Although this is a content-based distinction, these signs are important to prevent public confusion and facilitate collision-free flow of traffic.

Electronic Reader Board/Digital Display Sign: A sign or portion thereof that displays electronic, digital, pictorial, or text information in which alphanumeric characters, graphics, or symbols are defined by a small number of matrix elements using different combinations of light emitting diodes (LED's), fiber optics, light bulbs, or other illumination devices within the display area. Such signs can include computer programmable, microprocessor controlled electronic displays, and video display signs

Festoons: A string of ribbons, tinsel, flags, pennants or pinwheels.

Flag Sign: See Banner Sign.

Freestanding Sign: A sign not attached to a building or wall which is supported by one or more poles or braces or which rests on the ground or on a foundation resting on the ground.

Government Sign: A sign erected, permitted by, or required to be erected by a government agency.

Ground Sign: A freestanding sign supported by a base resting directly on the ground. The width of the base shall be at least 50 percent of the width of the sign in order to be a ground sign. Also called a monument sign.

Identification Sign: A sign intended to communicate information about services and facilities. Although this is a content-based distinction, these signs are important to prevent public confusion and facilitate collision-free flow of traffic.

Illuminated Sign: A sign that provides artificial light directly (or through any transparent or translucent material) from a source of light connected with the sign, or a sign illuminated by a light shielded so that no direct rays from it are visible from any public right-of-way or from the abutting property.

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Inflatable Sign: Any three-dimensional object, including a tethered balloon, capable of being filled with air or gas depicting a container, figure, product, or product trademark, whether or not such object contains a message or lettering

Mansard: A sloped roof or roof-like façade architecturally comparable to a building wall.

Mansard Sign: A sign that is mounted, painted on, or attached to a mansard

Mural: A design or representation painted or drawn on a wall which does not advertise an establishment, product, service, or activity.

Manual Sign: A sign on which the letters or pictorials are changed by hand.

Multi-Vision Sign: Any sign composed in whole or in part of a series of vertical or horizontal slats or cylinders that are capable of being rotated at intervals so that partial rotation of the group of slats or cylinders produces a different image or images.

Nonconforming sign: (also called a "legal nonconforming sign") A sign that does not comply with the size, placement, construction or other standards or regulations of this chapter or article but was lawfully established prior to its adoption. Signs for which the Zoning Board of Appeals has granted a variance are exempt and shall not be defined as nonconforming.

Painted Wall Sign: A sign which is applied with paint or similar substance on the face of a wall or the roof of a building.

Pennant: A flag or cloth that tapers to a point.

Permanent sign: A sign installed on a support structure, not intended to be moved or removed, but to remain for an indefinite period of time.

Pole Sign: A free standing sign which is supported by a structure, or poles, or braces. The width of the supporting structures must be less than 50 percent of the width of the sign.

Projecting Sign: A display sign which is attached directly to the building wall, extends more than 15 inches from the face of the wall and projects in such a way that the message is not parallel to the wall to which it is attached.

Right-of-way signs: Signs erected by the Township, county, state, federal and other public/quasi-public agencies and located within the public right-of-way.

Roof Line: The top of a roof or parapet wall, whichever is higher, but excluding any cupolas, chimneys, or other minor projections.

Roof Sign: A sign erected above the roof line of a building.

Rotating Sign: A sign in which the sign itself or any portion of the sign moves in a revolving or similar manner. Such motion does not refer to methods of changeable copy.

Sidewalk Sign: An A-frame sign which is portable and designed to be placed on the sidewalk in front of the use it advertises. This may also be called a "Sandwich Board Sign."

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Sign: A device, structure, fixture, figure or placard which may or may not use graphics, symbols, emblems, numbers, lights and/or written copy designed specifically for the purpose of advertising, identifying, or directing attention to an establishment, product, service, person, place, organization, institution, activity, or idea.

Streamers: A long, narrow strip of material used as a decoration or symbol

Temporary sign: A sign installed for a limited period of time, intended to be removed within a time period as specified herein.

Traffic warning sign: A sign that indicates a hazard ahead on a road that may not be readily apparent to a driver.

Video Sign: A sign which displays moving images as on a television.

Wall Sign: A sign painted or attached directly to and parallel to the exterior wall of a building extending no greater than 12 inches from the exterior face of a wall to which it is attached.

Window Sign: A sign installed inside a window and intended to be viewed from the outside.

28.03 EXEMPTED SIGNS

The signs and devices listed in this section are exempted from the restrictions and requirements of this section except the requirements of Section 28.06 and may be used without permit or approval when not in violation of any law or safety standard or any other portion of this ordinance:

- a) Government signs.
- b) Signs not visible from any public way or from any point off the lot on which they are located.
- c) Official flags of governments when displayed in a manner approved by the government represented.
- d) Holiday decorations and greetings in season.
- e) Signs required by law to be displayed.
- f) In residential zoning districts signs, which are three square feet or less in size.
- g) In non-residential zoning districts signs which are five square feet or less in area. Such signs shall be a minimum of 10 feet apart and setback from all lot lines a minimum of 10 feet.
- h) Window signs.
- i) Signs erected for ordering or viewing drive-through window services or products when adjacent to a drive-through window vehicle driving lane.

28.04. PROHIBITED SIGNS

A sign not expressly permitted by this Chapter is prohibited. Specifically, the following types of signs are expressly prohibited.

- a) Any sign or sign structure which is structurally unsafe; or constitutes a hazard to safety or health by reason of inadequate maintenance, dilapidation or abandonment, or is not kept in good repair; or is capable of causing electrical shocks to persons likely to come in contact with it.

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- b) Any sign, banner, pennant, or similar device which, by reason of its size, location, content, motion, coloring or manner of illumination, constitutes a traffic hazard or a detriment to traffic safety by obstructing the vision of drivers or by obstructing or detracting from the visibility of any traffic sign or control device on public streets or roads.
- c) Any sign which obstructs free ingress or egress from a required door, window, fire escape or other exit way.
- d) A sign using the words “stop,” “danger,” or other words, phrases, symbols, or characters in such a manner as to interfere with, mislead, or confuse a vehicle driver. Although this is a content-based distinction, these signs must be prohibited to prevent public confusion, risks to safety, and traffic collisions.
- e) Any sign unlawfully installed, erected or maintained.
- f) Abandoned signs.
- g) Roof signs.
- h) Searchlights, laser lights, strobe lights, and lights of a similar nature.

28.05 SIGN PERMIT REQUIRED

- a) A sign permit shall be required for the erection and construction of all permanent signs except those exempted by Section 28.04.
- b) Sign permits are also required for all temporary signs exceeding 20 sq. ft. unless specifically exempted. Permits for temporary signs shall specifically state a date or a time frame by which the sign must be removed.
- c) A sign permit is not required for ordinary maintenance of signs such as painting, cleaning and light replacement and alteration of sign message.
- d) Application Information. An application for a sign permit shall be made to the Zoning Administrator or their agent along with a fee as required by Township Board resolution. The application, at a minimum, shall include the following:
 - 1) Name, address, and telephone number of applicant and the person, firm or corporation erecting the sign.
 - 2) Address or permanent parcel number of the property where the sign will be located.
 - 3) A sketch showing the location of the building, structure, or lot upon which the sign is to be attached or erected and showing the proposed sign in relation to buildings and structures along with setback from lot lines.
 - 4) An accurate drawing to scale of the plans and specifications, method of construction and attachment to structures or ground. If required by the Zoning Administrator, the applicant shall provide engineered stress sheets (sealed plans) and calculations showing that the structure is designed according to the requirements of the Township Building Code for wind load restrictions.

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- 5) Any required electrical permit shall be attached to the application.
- 6) The zoning district in which the sign is to be located.
- 7) Any other information which the Zoning Administrator may require in order to demonstrate compliance with this Article.
- 8) Signature of applicant or person, firm, or corporation erecting the sign.
- 9) For temporary signs which require a permit the permit shall designate the days on which the sign may be displayed.
- 10) The Zoning Administrator shall issue a sign permit if all provisions of this Article and other applicable Township regulations are met. A sign authorized by a permit shall be installed within six months of the date of issuance of the sign permit or else the permit shall expire. In the case of an expired permit, a new permit may be issued upon filing of a new application and fee.

28.06 REQUIREMENTS FOR ALL SIGNS

All signs, including signs which do not require a permit, are subject to the requirements of this Section 28.06 and 28.08 and all other applicable requirements of this Ordinance.

- a) Signs may be internally illuminated or, if externally illuminated, the source of the light shall be enclosed and directed to prevent the source of light from shining directly onto traffic or any residential district or property. For externally lit signs, the lighting fixture shall be mounted on the top only and the light fixture shielded so that light is directed downward so that no direct rays interfere with the vision of persons on adjacent streets or properties.
- b) Signs shall not be placed in, upon or over any public right-of-way, or alley, except as may be otherwise permitted by the Mason County Road Commission or Michigan Department of Transportation.
- c) No light pole, utility pole, publicly-owned landscaping, fire hydrant, or other supporting member shall be used for the placement of any sign unless specifically designed and approved for such use.
- d) A sign shall not, in the opinion of the Zoning Administrator, interfere with or obstruct the view of drivers or those on foot or bicycle, or create any type of safety hazard or distraction to vehicle drivers.
- e) No commercial vehicles or trailers, which in the opinion of the Zoning Administrator have the intended function of acting as a sign, shall be parked in any area abutting the street, unless no other parking area is available.
- f) Except for electronic reader boards no sign shall contain any moving or animated parts nor have the appearance of having any moving or animated parts.
- g) No wall sign shall extend beyond the edge of the wall to which it is affixed, and no wall sign shall extend above the roof line of a building.
- h) All ground, wall, and freestanding signs may include reader boards as permitted by Section 28.08 herein.

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- i) Signs shall not obstruct sidewalk passage of pedestrians
- j) A window sign may consist of illuminated letters including neon lights.
- k) Unless otherwise specifically stated in Article 21 regulating PUDs, and/or included in an approved PUD Development Plan, signs for uses or buildings located in the PUD District shall be subject to the sign limitations allowed for buildings or uses of a similar type built in the respective zoning districts.
- l) To assist emergency personnel in case of an emergency, all on site signs identifying a building or specific use shall have displayed thereon the address number of the property on which the building or use is located. The address number shall be displayed in a block text having a minimum height of four inches and a color that contrasts with the color of the background on which the address number is displayed
- m) Signs used by or for services, businesses, attractions, activities, lessors, owners that are no longer in operation and the owner has demonstrated an intent to abandon the use or building, then the use shall be considered abandoned and the sign shall be removed or replaced within 90 days after written notification from the Zoning Administrator to the sign owner, the property owner where the sign is located, or any other party having control over the sign.

The determination of abandonment shall be made by the Zoning Administrator. Evidence of such intent may include, but is not limited to the following:

- 1) Discontinuance of utility service;
- 2) Removal of building fixtures needed for the use;
- 3) Property falling into disrepair;
- 4) Elimination of postal service;
- 5) Non-payment of property taxes.

28.07 SIGN MEASUREMENT

- a) The area of a sign is the entire area within a circle, triangle, or parallelogram enclosing the extreme limits of writing, representation, emblem, or any figure of similar character, together with any frame or other material or color forming an integral part of the display or used to differentiate such sign from the background against which it is placed; excluding the necessary supports or uprights on which the sign is placed.
- b) Where a sign has two or more faces, the combined area of all faces shall be included in determining the area of the sign, except that where two faces are placed back-to-back and are at no point more than two feet from one another, the area of the sign shall be taken as the area of one face. In the case of a sphere, the total area of the sphere is divided by two for purposes of determining the maximum permitted sign area.
- c) The height of a sign shall be measured as the vertical distance from the highest point of the sign to the grade of the adjacent street or the average grade of the ground immediately beneath the sign, whichever is less.

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28.08 ELECTRONIC READER BOARDS / DIGITAL SIGNS

Electronic reader boards / digital signs shall comply with the following regulations:

a) Brightness.

1) Digital signs must have installed an ambient light monitor which shall monitor and adjust the brightness level of the display based on ambient light conditions consistent with the terms of this Article.

2) An electronic reader board sign shall not exceed a maximum illumination of 6,500 nits (candelas per square meter) during daylight hours and a maximum illumination of 325 nits (candelas per square meter) between dusk to dawn as measured at the sign's face at maximum brightness.

b) Timing intervals. The dwell time, defined as the interval of change between each individual message, shall be at least six seconds and a change of message must be accomplished within one second or less. The dwell time shall not include the one second or less to change the message.

c) An electronic reader board sign shall not have a white background in order to reduce glare.

d) An electronic reader board is allowed as a window sign and shall comply with the requirements for electronic reader boards as set forth in this Article.

e) Electronic reader boards legally in existence upon the effective date of this Article shall be required to comply with the illumination requirements of this Article.

28.09 REGULATIONS FOR TEMPORARY SIGNS

a) A temporary sign may be installed concurrent with the event or occurrence and removed upon the end of the event. The Zoning Administrator shall have the discretion to determine the beginning and end date of the event.

b) The Zoning Administrator shall have the discretion to determine when a temporary sign is a permanent sign and subject to the rules for permanent signs.

c) Permits are required for temporary signs that exceed 20 square feet in size. The permit shall designate the days on which the sign may be displayed. Display of the sign on any day other than those days designated on the permit shall be a violation of this Section.

d) A temporary sign permit may be issued as part of and in conjunction with a building permit. The sign permit issuance shall be noted on the building permit.

e) The size and number of temporary signs allowed shall be as specified within each zoning district provided in Sections 28.10 through 28.12.

f) Signs shall be anchored in a safe and secure manner. The anchoring of signs by tying or attaching weighted objects (such as cinder blocks or tires) is prohibited.

g) The sign shall be located a minimum of five feet from the edge of any street right-of-way or public or private sidewalk except for sandwich board signs as regulated herein.

h) A sign shall not be displayed if it is torn, bent, faded, not upright, unreadable, or otherwise unsightly.

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- i) Temporary signs held by a person shall not be displayed in the road right of way and shall not hamper the visibility of a driver on or off the site.
- j) Temporary signs shall only be internally illuminated.
- k) An electronic reader board/ digital display sign may serve as a temporary sign and shall comply with the requirements of Section 28.08.

28.10 SIGN REGULATIONS FOR THE A-1, A/R, R-1, R-2, EPWORTH, PUMPED STORAGE, and HARBOR ZONING DISTRICTS

- a) The following signs are permitted per parcel as part of an application for and approval of a Conditional Use Permit according to the following requirements:
 - 1) One permanent ground sign as follows:
 - i. One per parcel not to exceed 32 square feet in area.
 - ii. The height of the sign shall not exceed six feet.
 - iii. The sign shall be setback a minimum of five feet from the front lot line and 20 feet from all other lot lines.
 - iv. The sign may be illuminated.
 - 2) One wall sign per public or private street frontage as follows:
 - i. The sign shall not exceed 32 square feet in area.
 - ii. The wall sign shall be placed on that side of the building which directly faces the street.
 - iii All signs shall be placed flat against the building and shall not project beyond a wall or architectural feature by more than one foot. No wall sign shall project above or beyond the roof or parapet to which it is attached.
 - iv. A wall sign may be internally illuminated.
- b) Temporary signs are permitted as follows:
 - 1) Temporary signs are permitted, provided that the square footage of a single sign or the total square footage of all temporary signs shall not exceed 16 square feet.
 - 2) Temporary signs shall comply with the requirements of Section 28.09.
- c) Non-digital ground /monument and freestanding signs shall be permitted at main (public) street entrances to residential subdivisions and other housing developments for the purpose of identifying the subdivision or development. Said signs shall be limited to one per entrance not to exceed 24 square feet in area and subject to the height, setback and illumination provisions of this chapter.

28.11 SIGN REGULATONS FOR THE PS DISTRICT

- a) The following signs are permitted per parcel according to the following requirements:
 - 1) One permanent ground sign as follows:

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- i. One per parcel not to exceed 32 square feet in area.
- ii. The height of the sign shall not exceed five feet. *(Note: most communities allow 6 ft.)*
- iii. The sign shall be setback a minimum of five feet from the front lot line and 20 feet from all other lot lines.
- iv. The sign may be illuminated.

2) One wall sign per public or private street frontage as follows:

- i. The sign shall not exceed 32 square feet in area.
- ii. The wall sign shall be placed on that side of the building which directly faces the street.
- iii. All signs shall be placed flat against the building and shall not project beyond a wall or architectural feature by more than one foot. No wall sign shall project above or beyond the roof or parapet to which it is attached.
- iv. A wall sign may be internally illuminated.

b) Temporary signs are permitted as follows:

- 1) Temporary signs are permitted, provided that the square footage of a single sign or the total square footage of all temporary signs shall not exceed 16 square feet.
- 2) Temporary signs shall comply with the requirements of Section 28.09.

28.12 SIGN REGULATIONS FOR THE C-1, C-2, AP, and INDUSTRIAL DISTRICT

The following signs are permitted per parcel according to the following requirements:

a) One permanent ground or one pole sign per parcel is permitted except that for a corner lot one permanent ground sign or one pole sign is permitted to be established along each street frontage. All such signs are subject to the following requirements;

- 1) The size of the pole sign shall not exceed 64 square feet in area per sign face and the height of a pole sign shall not exceed 20 feet.
- 2) The size of the ground sign shall not exceed 40 sq. ft and the height of a ground sign shall not exceed six feet.
- 3) The sign shall be setback a minimum of five feet from the front lot line and 20 feet from all other lot lines.
- 4) The sign may be illuminated.
- 5) Where two or more commercial establishments are located in the same building or on the same lot, signage for each business shall be combined on one sign. The maximum sign area shall be 100 sq. ft.

b) Wall Signs

- 1) For wall signs in the C-1 and C-2 zones, more than one sign may be attached to each wall, which directly fronts a public street or public or private off-street parking area provided the total sign area does not exceed 20 percent of the area of the wall to which it is attached but

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not to exceed 100 sq. ft. per sign per wall. Signs shall not be placed higher than 20 feet above the base of the wall to which is attached.

For wall signs in the Industrial zone more than one sign may be attached to each wall, which directly fronts a public street or public or private off-street parking area provided the total sign area does not exceed 25 percent of the area of the wall to which it is attached but not to exceed 300 sq. ft. per sign per wall. Signs shall not be placed higher than 20 feet above the base of the wall to which is attached.

2) All signs shall be placed flat against the building and shall not project beyond a wall or architectural feature by more than one foot. No wall sign shall project above or beyond the roof or parapet to which it is attached.

3) A wall sign may be internally illuminated.

c) Sandwich Board Signs

1) The sign shall be located outside of the business it serves but shall be located no more than ten feet from the customer entrance to the business, be a minimum of two feet from the edge of the curb and be located so that at least a five-foot-wide un-obstructed walkway is maintained. The sign shall not be placed in an off-street parking lot or on street parking space.

2) One sign per customer entrance shall be permitted regardless of the number of tenants on the premises.

3) The sign may be displayed only during operating business hours.

4) Each sign shall not exceed eight square feet in area and four feet in height.

5) No sign shall be located in such a manner as to interfere with vehicular or pedestrian traffic flow or visibility.

6) All signs must be constructed of weatherproof, durable material and kept in good repair.

7) The sandwich board sign shall not be illuminated in any manner.

8) All sandwich board signs must be marked in such a way as to identify the owner of the sign or the party responsible for placement of the sign. Such information must be readily identifiable upon reasonable inspection.

9) A permit is not required for a sandwich board sign.

d) Window Signs

Window signs are permitted but shall not exceed 30 percent of the window area and shall be placed so as to maintain clear vision into the building for public safety reasons

e) Temporary Signs

1) Temporary signs are permitted provided that the total square footage of all temporary signs shall not exceed 32 square feet and eight feet in height with no single sign being larger than 32 square feet.

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- 2) One additional temporary sign of up to 32 square feet may be allowed if it is issued in conjunction with a building permit for a building to be constructed on that same property
- 3) Temporary signs shall comply with the requirements of Section 28.09.

28.13 CONSTRUCTION AND MAINTENANCE OF SIGNS.

- a) All signs shall be constructed and maintained in accordance with the current Michigan Construction Code.
- b) Signs shall be maintained free of peeling paint or paper, fading, staining, rust, or other conditions which impair legibility.
- c) All signs, sign supports, frames, braces, wiring, guys and anchors shall be maintained in such a manner that they do not create a hazard for pedestrians and vehicles.
- d) All signs shall be designed to ensure a dead load and wind pressure in any direction of not less than 30 pounds per square foot of area. All signs shall be securely anchored or otherwise made immobile.

28.14 NON-CONFORMING SIGNS

- a) Every legal permanent sign which does not conform to the height, size, area or location requirements of this Chapter as of the date of the adoption of this Ordinance, is hereby deemed to be non-conforming.
- b) Non-conforming signs may be maintained and repaired so as to continue the useful life of the sign but shall not be expanded, enlarged, or extended.
- c) A non-conforming sign may be diminished in size or dimension or the copy of the sign amended or changed without jeopardizing the privilege of non-conforming use.
- d) A sign accessory to a non-conforming use may be erected in the Township in accordance with the sign regulations for the District in which the property is located.
- e) Non-conforming signs shall not:
 - 1) Be replaced or changed to another non-conforming sign;
 - 2) Be repaired if such repair involves any of the following:
 - i. Necessitates the replacement of both the sign frame and sign panels. However, the panel of a non-conforming sign may be replaced to fit within the existing frame;
 - ii. Replacement of the signs primary support pole(s) or other support structure;
 - 3) Be enhanced with any new feature including the addition of illumination.
 - 4) Be re-established after damage or destruction, if the if the replacement cost thereof exceeds 60 percent of the fair market value of the nonconforming sign prior to its damage or destruction. The fair market value shall be as determined by the Zoning Administrator or their agent.

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28.15 VARIANCES

The Zoning Board of Appeals shall have the authority to grant variances from the requirements of this article according to the criteria in Article 32. In making a decision on whether a practical difficulty exists, the Board may also consider the following for sign variance requests:

- a) In determining whether a variance is appropriate, the Zoning Board of Appeals shall study the sign proposal, giving consideration to any extraordinary circumstances, such as those listed below, that would cause practical difficulty in complying with the sign standards.
- b) In granting a variance, the Zoning Board of Appeals may attach such conditions regarding the location, character, and other features of the proposed sign as it may deem reasonable.
- c) In granting or denying a variance, the Zoning Board of Appeals shall state the grounds and findings upon which it justifies granting or denying the variance based on the following criteria:
 - 1) Permitted signage could not be easily seen by passing motorists due to the configuration of existing buildings, trees, or other obstructions.
 - 2) Permitted signage could not be seen by passing motorists in sufficient time to permit safe deceleration and exit. In determining whether such circumstances exist, the Zoning Board of Appeals shall consider the width of the road, the number of moving lanes, the volume of traffic, and speed limits.
 - 3) Existing signs on nearby parcels would substantially reduce the visibility or identification impact of a conforming sign on the subject parcel.
 - 4) Construction of a conforming sign would require removal or severe alteration to natural features on the parcel, such as, but not limited to: removal of trees, alteration of the natural topography, filling of wetlands, or obstruction of a natural drainage course.
 - 5) Construction of a conforming sign would obstruct the vision of motorists or otherwise endanger the health or safety of passers-by.
 - 6) A sign which exceeds the permitted height or area standards of this article would be more appropriate in scale because of the large size or frontage of the parcel or building

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ARTICLE 29

WIND ENERGY TURBINES

29.01 PURPOSE

The purpose of this article is to establish guidelines for the siting of wind energy turbines (WETs) and this article applies to same. The goals are as follows:

- a) To provide for the safe, effective, and efficient use of a WET in order to reduce the consumption of fossil fuels in producing electricity.
- b) Preserve and protect public health, safety, welfare, and quality of life by minimizing the potential adverse impacts of a WET.
- c) To establish standards and procedures by which the siting, design, engineering, installation, operation, and maintenance of a WET shall be governed.

Ambient sound level means the amount of ordinary background noise at a given location other than noise created by the WET, which may include, but not limited to, traffic, machinery, human activity, and the interaction of wind with the landscape. The ambient sound level is measured on the dB(A) weighted scale as defined by the American National Standards Institute.

Anemometer means a temporary wind speed indicator constructed for the purpose of analyzing the potential for utilizing a wind energy turbine at a given site. This includes the tower, base plate, anchors, cables and hardware, wind direction vanes, booms to hold equipment, data logger, instrument wiring, and any telemetry devices that are used to monitor or transmit wind speed and wind flow characteristics over a period of time for either instantaneous wind information or to characterize the wind resource at a given location.

Condominium development means a development that is created under the Condominium Act (MCL 559.101 et seq.).

General common element means an area designated for use by all owners within the condominium development.

Decibel means a unit of measure used to express the magnitude of sound pressure and sound intensity. Decibels shall be measured on the dB(A) weighted scale as defined by the American National Standards Institute.

Decommissioning means the process of terminating operation and completely removing a WET(s) and all related structures, foundations, access roads, equipment and restoration of any disturbed land associated with the WET.

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Large wind energy turbine (LWET) means a tower-mounted wind energy system that converts wind energy into electricity through the use of equipment which includes any base, blade, foundation, generator, nacelle, rotor, tower, transformer, vane, wire, inverter, batteries, or other components used in the system. The LWET has a rated capacity above 250 kilowatts, and the main purpose of the LWET is to supply electricity to off-site customers.

Medium wind energy turbine (MWET) means a tower-mounted wind energy system that converts wind energy into electricity through the use of equipment which includes any base, blade, foundation, generator, nacelle, rotor, tower, transformer, vane, wire, inverter, batteries, or other components used in the system. The MWET has a rated capacity that shall not exceed 250 kilowatts. The total height shall not exceed 150 feet.

Nacelle refers to the encasement which houses all of the generating components, gear box, drive train, and other equipment.

Net-metering means a special metering and billing agreement between utility companies and their customers, which facilitates the connection of renewable energy generating systems to the power grid.

Occupied building means a residence, school, hospital, church, public library, business, or any other building used for public gatherings.

Operator means the entity responsible for the day-to-day operation and maintenance of a wind energy turbine (WET).

Owner means the individual or entity, including their respective successors and assigns, which have an equity interest or own the wind energy turbine (WET) in accordance with this ordinance.

Rotor diameter means the cross-sectional dimension of the circle swept by the rotating blades of a wind energy turbine (WET).

Shadow flicker means the moving shadow, created by the sun shining through the rotating blades of a wind energy turbine (WET). The amount of shadow flicker created by a WET is calculated by a computer model that takes into consideration turbine location, elevation, tree cover, location of all structures, wind activity, and sunlight.

Small wind energy turbine (SWET) means a tower-mounted wind energy system that converts wind energy into electricity through the use of equipment which includes any base, blade, foundation, generator, nacelle, rotor, tower, transformer, vane, wire, inverter, batteries, or other components used in the system. The SWET has a rated capacity that shall not exceed 30 kilowatts. The total height shall not exceed 120 feet.

Structure means any building or other structure, such as a municipal water tower, that is a minimum of 12 feet high at its highest point of roof and is secured to frost-footings or a concrete slab.

Structure-mounted wind energy turbine (SMWET) converts wind energy into electricity through the use of equipment which includes any base, blade, foundation, generator, nacelle, rotor, tower, transformer, vane, wire, inverter, batteries, or other components used in the system. A SMWET is attached to a structure's roof, walls, or other elevated surface.

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The SMWET has a rated capacity that shall not exceed ten kilowatts. The total height shall not exceed 15 feet as measured from the point where the WET attaches to the structure to the maximum height reached by any part of the WET.

Total height means the vertical distance measured from the ground level at the base of the tower to the maximum height reached by any part of the wind energy turbine (WET).

Tower means a freestanding monopole that supports a wind energy turbine (WET).

Wind energy turbine (WET) means any wind energy conversion system that converts wind energy into electricity through the use of a wind generator and includes the nacelle, rotor, tower, and pad transformer, if any.

29.02 APPLICABILITY.

- a) This article applies to all WETs proposed to be constructed after the effective date of this article.
- b) All WETs constructed prior to the effective date of this ordinance shall not be required to meet the requirements of this ordinance; however, any physical modification to an existing WET that materially alters the size, type, equipment or location shall require a permit under this ordinance.
- c) This article is subject to applicable airport regulations and restrictions. See section 3.36.

29.03 ANEMOMETERS.

Anemometers may be permitted in all zoning districts as a temporary use, in compliance with the provisions contained herein, and the applicable WET regulations:

- a) The construction, installation, or modification of an anemometer tower shall require a building permit and shall conform to all applicable local, state, and federal safety, construction, environmental, electrical, communications, and FAA requirements.
- b) An anemometer shall be subject to the minimum requirements for height, setback, separation, location, safety requirements, and decommissioning that correspond to the size of the WET that is proposed to be constructed on the site.
- c) An anemometer shall be permitted for no more than 13 months for a SMWET, SWET, or MWET.
- d) An anemometer shall be permitted for no more than three years for a LWET.

29.04 PERMITTED USES.

Structure-mounted wind energy turbines (SMWET) and small wind energy turbines (SWET) shall be considered a permitted use in all zoning districts and shall not be erected, constructed, installed, or modified as provided in this ordinance unless a building permit has been issued to the owner(s) and/or operator(s). All SMWETs and SWETs are subject to the following minimum requirements:

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a) Siting and design requirements.

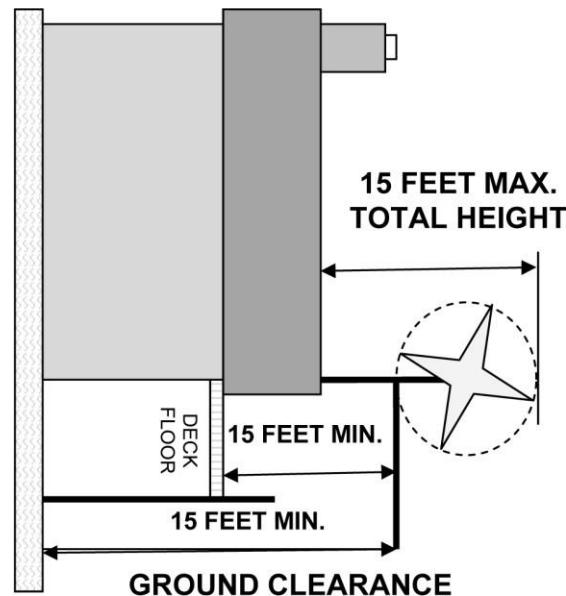
1) *Noise.* Turbines shall be designed to eliminate the thumping noise that can occur during operation perceptible beyond the property on which it is located.

2) *Visual appearance.*

- i. A SMWET or SWET, including accessory buildings and related structures, shall be a nonreflective, nonobtrusive color (e.g., white, gray, black). The appearance of the turbine, tower, and any ancillary facility shall be maintained throughout the life of the SMWET or SWET.
- ii. A SMWET or SWET shall not be artificially lighted, except to the extent required by the FAA or other applicable authority, or otherwise necessary for the reasonable safety and security thereof.
- iii. SMWET or SWET shall not be used for displaying any advertising (including flags, streamers, or decorative items), except for identification of the turbine manufacturer.

3) *Ground clearance.* The lowest extension of any blade or other exposed moving component of a SMWET or SWET shall be at least 15 feet above the ground (at the highest point of the natural grade within 30 feet of the base of the tower) and, in addition, at least 15 feet above any outdoor surfaces intended for human use, such as balconies or roof gardens, that are located directly below the SMWET or SWET. See sketch B.

Small Mounted Wind Energy Tower (SMWET) Sketch B



4) *Noise.* Noise emanating from the operation of a SMWET or SWET shall not exceed, at any time, the ambient noise level at any property line of a residential use parcel or from the property line of parks, schools, hospitals, and churches. Noise emanating from the operation

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of a SMWET or SWET shall not exceed, at any time, the ambient noise level plus five dB(A) at any property line of a nonresidential use parcel.

5) *Vibration.* Vibrations shall not be produced which are humanly perceptible beyond the property on which a SMWET or SWET is located.

6) *Guy wires.* Guy wires shall not be permitted as part of the SMWET or SWET.

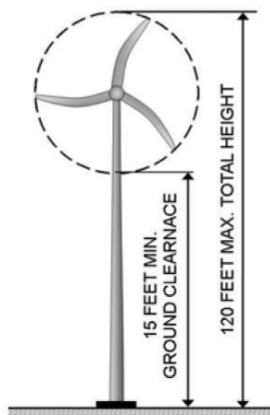
7) *Structure-mounted wind energy turbines.* SMWETs shall also be subject to the following:

- i. **Setback.** The setback of the SMWET shall be a minimum of 15 feet from the property line, public right-of-way, public easement, or overhead utility lines if mounted directly on a roof or other elevated surface of a structure. If the SMWET is affixed by any extension to the side, roof, or other elevated surface, then the setback from the property line or public right-of-way shall be a minimum of 15 feet. The setback shall be measured from the furthest outward extension of all moving parts.
- ii. **Quantity.** No more than three SMWETs shall be installed on any parcel. The Planning Commission may allow more SMWETs if appropriate. The Planning Commission shall, through a site plan review, consider the size of the parcel, the use of the parcel, the location of the proposed WETs, the use of and impact upon adjoining parcels, and other relevant factors in determining if additional WETs are appropriate.
- iv. **Separation.** If more than one SMWET is installed, a distance equal to the height of the SMWET must be maintained between the base of each SMWET.

8) *Small wind energy turbines.* SWETs shall also be subject to the following:

- i. **Height.** The total height of a SWET shall not exceed 120 feet. Refer to Sketch A.

Small Wind Energy Tower (SWET) Sketch A



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- ii. **Location.** The SWET shall not be located in the required front yard of a property.
- iii. **Quantity.** No more than one SWET shall be installed on any residentially zoned property. The Planning Commission may allow more SWETs on agriculturally, commercially or industrially zoned or used properties if appropriate. The Planning Commission shall, through a site plan review, consider the size of the parcel, the use of the lot, the location of the proposed WETs, the use of and impact upon adjoining lots, and other relevant factors in determining if additional WETs are appropriate.
- iv. **Other setbacks.** The setback shall be equal to the total height of the SWET, from the property line, public right-of-way, public easement, or overhead public utility lines.
- v. **Electrical system.** All electrical controls, control wiring, grounding wires, power lines, and system components shall be placed underground within the boundary of each parcel at a depth designed to accommodate the existing land use to the maximum extent practicable. Wires necessary to connect the wind generator to the tower wiring are exempt from this requirement.

b) Permit application requirements.

- 1) Name of property owner(s), address, and parcel number.
- 2) A drawing of the site shall include maps (drawn to scale) showing the proposed location of all components and ancillary equipment of the SMWET(s) or SWET, property lines, physical dimensions of the property, existing building(s), setback lines, right-of-way lines, public easements, overhead utility lines, sidewalks, nonmotorized pathways, roads and contours. The drawing must also include adjoining properties with the location of all structures and the current use of the property.
- 3) The proposed type and height of the SMWET or SWET to be constructed, including the manufacturer and model, product specifications including maximum noise output (measured in decibels), total rated generating capacity, dimensions, rotor diameter, and a description of ancillary facilities.
- 4) Documented compliance with applicable local, state and national regulations including, but not limited to, all applicable safety, construction, environmental, electrical, communications, and FAA requirements.
- 5) Evidence that the utility company has been informed of the customer's intent to install an interconnected, customer-owned generator and that such connection has been approved. Off-grid systems shall be exempt from this requirement.
- 6) Other relevant information as may be reasonably requested.
- 7) Signature of the applicant.

c) Safety requirements.

- 1) If the SMWET or SWET is connected to a public utility system for net-metering purposes, it shall meet the requirements for interconnection and operation as set forth in the public utility's service regulations meeting federal, state, and industry standards applicable to wind

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power generation facilities, and the connection shall be inspected by the appropriate public utility.

2) The SMWET or SWET shall be equipped with an automatic braking, governing or feathering system to prevent uncontrolled rotation, over-speeding, and excessive stress on the tower structure, rotor blades and other wind energy components unless the manufacturer certifies that a braking system is not necessary.

3) A clearly visible warning sign regarding voltage shall be placed at the base of the SMWET or SWET.

4) The structural integrity of the SMWET or SWET shall conform to the design standards of the International Electrical Commission, specifically IEC 61400-1 "Wind Turbine Safety and Design" and/or IEC 61400-2 "Small Wind Turbine Safety," IEC 61400-22 "Wind Turbine Certification," and IEC 61400-23 "Blade Structural Testing," or any similar successor standards.

d) Signal interference.

The SMWET or SWET shall not interfere with communication systems such as, but not limited to, radio, telephone, television, satellite, or emergency communication systems.

e) Decommissioning.

1) The SMWET or SWET owner(s) or operator(s) shall complete decommissioning within six months after the WET becomes inoperable. Upon request of the owner(s) or assigns of the SMWET or SWET, and for a good cause, the Pere Marquette Township Board may grant a reasonable extension of time. The SMWET or SWET will presume to be inoperable if no electricity is generated for a continuous period of six months. All decommissioning expenses are the responsibility of the owner(s) or operator(s) or property owner.

2) If the responsible party fails to complete decommissioning within the period prescribed above, the Pere Marquette Township Board may designate a contractor to complete decommissioning with the expense thereof to be charged to the property owner to become a lien against the premises.

f) Public inquiries and complaints. Should an aggrieved property owner allege that the SMWET or SWET is not in compliance with the requirements of this ordinance; the procedure shall be as follows:

1) Notify Pere Marquette Township in writing regarding their concerns.

2) If the complaint is deemed sufficient by the Township to warrant an investigation, the Township will request the aggrieved property owner deposit funds in an amount sufficient to pay the cost of the investigation to determine compliance with the requirements of this ordinance.

3) If the investigation indicates that the WET is within the ordinance requirements, the Township will use the deposit to pay for the investigation.

4) If the SMWET or SWET is in violation of the ordinance requirements, the owner(s) shall reimburse the Township for the investigation and take immediate action to bring the

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SMWET or SWET into compliance which may include ceasing operation of the WET until the ordinance violations are corrected. The Township will refund the deposit to the aggrieved property owner.

29.05 CONDITIONAL USES.

A medium wind energy turbine(s) (MWET) and a large wind energy turbine(s) (LWET) approved after the effective date of this ordinance shall require a conditional use permit. In addition to the materials required for all conditional uses, the application shall include the following:

a) Siting and design requirements.

1) *Noise.* Turbines shall be designed to eliminate the thumping noise that can occur during operation perceptible beyond the property on which it is located.

2) *Industry standards.* The design of a MWET or LWET shall conform to all applicable industry standards.

3) *Visual appearance.*

i. Each MWET or LWET, shall be mounted on a tubular tower and along with all accessory buildings and other related structures shall be of a nonreflective, nonobtrusive color (e.g., white, gray, black). The appearance of turbines, towers and buildings shall be maintained throughout the life of the MWET or LWET.

ii. Each MWET or LWET shall not be artificially lighted, except to the extent required by the FAA or other applicable authority, or otherwise necessary for the reasonable safety and security thereof.

iii. Each MWET or LWET shall not be used for displaying any advertising (including flags, streamers, or decorative items), except for reasonable identification of the turbine manufacturer or operator(s).

4) *Vibration.* Each MWET or LWET shall not produce vibrations humanly perceptible beyond the property on which it is located.

5) *Shadow flicker.* The MWET or LWET owner(s) and/or operator(s) shall conduct an analysis on potential shadow flicker at any occupied building with direct line-of-sight to the MWET or LWET. The analysis shall identify the locations of shadow flicker that may be caused by the project and the expected durations of the flicker at these locations from sunrise to sunset over the course of a year. The analysis shall identify situations where shadow flicker may affect the occupants of the buildings for more than 30 hours per year, and describe measures that shall be taken to eliminate or mitigate the problems. Shadow flicker on a building shall not exceed 30 hours per year.

6) *Guy wires.* Guy wires shall not be permitted as part of the MWET or LWET.

7) *Electrical system.* All electrical controls, control wiring, grounding wires, power lines, and all other electrical system components of the MWET or LWET shall be placed underground within the boundary of each parcel at a depth designed to accommodate the existing land use

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to the maximum extent practicable. Wires necessary to connect the wind generator to the tower wiring are exempt from this requirement.

8) *Additional regulations for MWETs.* In addition to the siting and design requirements listed previously, the MWET shall also be subject to the following:

- i. **Location.** If an MWET is located on an agricultural, commercial, industrial, and public property that has an occupied building it shall only be located in the rear yard. The MWET shall only be located in a general common element in a condominium development.
- ii. **Height.** The total height of a MWET shall not exceed 150 feet.
- iii. **Ground clearance.** The lowest extension of any blade or other exposed moving component of a MWET shall be at least 15 feet above the ground (at the highest point of the grade level within 50 feet of the base of the tower) and, in addition, at least 15 feet above any outdoor surfaces intended for human occupancy, such as balconies or roof gardens, that are located directly below the MWET.
- iv. **Noise.** Noise emanating from the operation of a MWET or shall not exceed, at any time, the ambient sound level, as defined in section 109-499, at any property line of a residential use parcel or from the property line of parks, schools, hospitals, and churches. Noise emanating from the operation of a MWET(s) shall not exceed, at any time, the ambient sound level, as defined in section 109-499, plus five dB(A), at any property line of a nonresidential or nonagricultural use parcel.
- v. **Quantity.** The number of MWET shall be determined based on setback and separation requirements.
- vi. **Setback and separation.**
 - a. Occupied building setback. The setback from all occupied buildings on the applicant's parcel shall be a minimum of 20 feet measured from the base of the tower.
 - b. Property line setbacks. With the exception of the locations of public roads (see below), drain rights-of-way and parcels with occupied buildings (see above), the property line setbacks shall be equal to the total height of the MWET as measured from the base of the tower. This setback may be reduced to a distance agreed upon as part of the conditional use permit if the applicant provides a registered engineer's certification that the WET is designed to collapse, fall, curl, or bend within a distance or zone shorter than the height of the WET.
 - c. Public road setbacks. Each MWET shall be set back from the nearest public road a distance equal to the total height of the MWET, determined at the nearest boundary of the underlying right-of-way for such public road.
 - d. Communication and electrical lines. Each MWET shall be set back from the nearest aboveground public electric power line or telephone line a distance

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equal to the total height of the MWET, as measured from the base of the tower, determined from the existing power line or telephone line.

- e. Tower separation. MWET/tower separation shall be based on industry standard and manufacturer recommendation.

9) *Additional regulations for LWETs.* In addition to the siting and design requirements listed previously, each LWET shall also be subject to the following:

- i. **Ground clearance.** The lowest extension of any blade or other exposed moving component of an LWET shall be at least 50 feet above the ground (at the highest point of the grade level within 150 feet of the base of the tower).
- ii. **Noise.** Noise emanating from the operation of a LWET shall not exceed, at any time, the ambient sound level:
 - a. At any property line of a residential use parcel or from the property line of parks, schools, hospitals, and churches;
 - b. Plus five dB(A), at any property line of a nonresidential use parcel.
 - c. Quantity. The number of LWETs shall be determined based on setbacks and separation.

iii. Setback and separation.

- a. Occupied building setback. Each LWET shall be set back from the nearest occupied building that is located on the same parcel as the LWET a minimum of 1.5 times its total height as measured from the base of the tower.
- b. Property line setbacks. With the exception of the locations of public roads (see below), drain rights-of-way and parcels with occupied buildings (see above), the property line setbacks shall be a minimum of 1.5 times the total height, as measured from the base of the tower.
- c. Public road setbacks. Each LWET shall be set back from the nearest public road a minimum distance no less than 400 feet or 1.5 times its total height, whichever is greater, determined at the nearest boundary of the underlying right-of-way for such public road.
- d. Communication and electrical lines. Each LWET shall be set back from the nearest aboveground public electric power line or telephone line a distance no less than 400 feet or 1.5 times its total height, whichever is greater, determined from the existing power line or telephone line.
- e. Tower separation. Turbine/tower separation shall be based on industry standards and manufacturer recommendation.

10) *Access driveway.* Each LWET shall require the construction of a private road to offer an adequate means by which the Township or other necessary parties may readily access the site in the event of an emergency.

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b) Safety requirements.

- 1) If the MWET or LWET is connected to a public utility system for net-metering purposes, it shall meet the requirements for interconnection and operation as set forth in the public utility's service regulations applicable to wind power generation facilities, and the connection shall be inspected by the appropriate public utility.
- 2) The MWET or LWET shall be equipped with an automatic braking or governing system to prevent uncontrolled rotation, over-speeding, and excessive pressure on the tower structure, rotor blades and other wind energy components unless the manufacturer certifies that a braking system is not necessary.
- 3) Security measures need to be in place to prevent unauthorized trespass and access. Each MWET or LWET shall not be climbable up to 15 feet above ground surfaces. All access doors to MWETs or LWETs and electrical equipment shall be locked and/or fenced as appropriate, to prevent entry by nonauthorized person(s).
- 4) All spent lubricants, cooling fluids, and any other hazardous materials shall be properly and safely removed in a timely manner.
- 5) Each MWET or LWET shall have one sign, not to exceed two square feet in area, posted at the base of the tower and on the security fence if applicable. The sign shall contain at least the following:
 - i. Warning high voltage.
 - ii. Manufacturer's and owner/operator's name.
 - iii. Emergency contact numbers (list more than one number).
- 6) The structural integrity of the MWET or LWET shall conform to the design standards of the International Electrical Commission, specifically IEC 61400-1 "Wind Turbine Safety and Design," IEC 61400-22 "Wind Turbine Certification," and IEC 61400-23 "Blade Structural Testing," or any similar successor standards.

c) Signal interference.

The MWET or LWET shall not interfere with communication systems such as, but not limited to, radio, telephone, television, satellite, or emergency communication systems.

d) Decommissioning.

- 1) The MWET or LWET owner(s) or operator(s) shall complete decommissioning within 12 months after the end of the useful life. Upon request of the owner(s) or the assigns of the MWET or LWET, and for a good cause, the PM Township Board may grant a reasonable extension of time. Each MWET or LWET will presume to be at the end of its useful life if no electricity is generated for a continuous period of 12 months. All decommissioning expenses are the responsibility of the owner(s) or operator(s).
- 2) Decommissioning shall include the removal of each MWET or LWET, buildings, electrical components, as well as any other associated facilities. Any foundation shall be removed to a minimum depth of 60 inches below grade. Following removal, the location of

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any remaining wind turbine foundation shall be identified on a map as such and recorded with the deed to the property with the county register of deeds.

3) All access roads to the MWET or LWET shall be removed, cleared, and graded by the MWET or LWET owner(s), unless the property owner(s) requests, in writing, a desire to maintain the access road. PM Township will not be assumed to take ownership of any access road unless through official action of the PM Township Board.

4) The site and any disturbed earth shall be stabilized, graded, and cleared of any debris by the owner(s) of the MWET or LWET or its assigns. If the site is not to be used for agricultural practices following removal, the site shall be seeded to prevent soil erosion, unless the property owner(s) requests in writing that the land surface areas not be restored.

5) In addition to the decommissioning requirements listed previously, the MWET shall also be subject to the following: If the MWET owner(s) or operator(s) fails to complete decommissioning within the period prescribed above the Township may designate a contractor to complete decommissioning with the expense thereof to be charged to the owner(s) or operator(s) and/or to become a lien against the premises. If the MWET is not owned by the property owner(s), a bond must be provided to the Township for the cost of decommissioning each MWET prior to the issuance of a construction permit.

6) In addition to the decommissioning requirements previously listed, the LWET shall also be subject to the following:

- i. An independent and certified professional engineer shall be retained to estimate the total cost of decommissioning ("decommissioning costs") with no regard to salvage value of the equipment, and the cost of decommissioning net salvage value of the equipment ("net decommissioning costs"). When determining this amount, the Township may also require an annual escalator or increase based on the federal consumer price index (or equivalent or its successor). Said estimates shall be submitted to the Township Zoning Administrator after the first year of operation and every fifth year thereafter.
- ii. The LWET owner(s) or operator(s) shall post and maintain decommissioning funds in an amount equal to net decommissioning costs; provided that at no point shall decommissioning funds be less than 100 percent of decommissioning costs. The decommissioning funds shall be posted and maintained with a bonding company or federal or state-chartered lending institution chosen by the owner(s) or operator(s) and participating landowner(s) posting the financial security. The bonding company or lending institution is authorized to conduct such business and is approved by the Township.
- iii. Decommissioning funds shall be in the form of a performance bond made out to PM Township.
- iv. A condition of the bond shall be notification by the bond company to the Township Zoning Administrator when the bond is about to expire or be terminated.

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- v. Failure to keep the bond in effect while an LWET is in place will be a violation of the conditional use permit. If a lapse in the bond occurs, PM Township may take action up to and including requiring ceasing operation of the WET until the bond is reposted.
- vi. The escrow agent shall release the decommissioning funds when the owner(s) has demonstrated and the Township concurs that decommissioning has been satisfactorily completed, or upon written approval of the Township in order to implement the decommissioning plan.
- vii. If neither the owner(s) or operator(s), nor the landowner(s) complete decommissioning within the periods addressed previously (decommissioning requirements in subsections (d)(1) and (2) of this section), then PM Township may take such measures as necessary to complete decommissioning. The entry into and submission of evidence of a participating landowner agreement to the Township shall constitute agreement and consent of the parties to the agreement, their respective heirs, successors and assigns that the Township may take such action as necessary to implement the decommissioning plan.

e) Site plan requirements.

1) *Site plan drawing.* All applications for an MWET or LWET conditional use permit shall be accompanied by a detailed site plan map that is drawn to scale and dimensioned, displaying the following information:

- i. Existing property features to include the following: property liens, physical dimensions of the property, land use, zoning district, contours, setback lines, rights-of-way, public and utility easements, public roads, access roads (including width), sidewalks, nonmotorized pathways, large trees, and all buildings. The site plan must also include the adjoining properties as well as the location and use of all structures and utilities within 300 feet of the property.
- ii. Location and height of all proposed MWETs or LWETs, buildings, structures, ancillary equipment, underground utilities and their depth, towers, security fencing, access roads (including width, composition, and maintenance plans), electrical sub-stations, and other aboveground structures and utilities associated with the proposed MWET or LWET.
- iii. Additional details and information as required by the conditional use requirements of the zoning ordinance or as requested by the Planning Commission.

2) *Site plan documentation.* The following documentation shall be included with the site plan:

- i. The contact information for the owner(s) and operator(s) of the MWET or LWET as well as contact information for all property owners on which the MWET or LWET is located.
- ii. A copy of the lease, or recorded document, with the landowner(s) if the applicant does not own the land for the proposed MWET or LWET. A statement from the

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- landowner(s) of the leased site that he/she will abide by all applicable terms and conditions of the use permit, if approved.
- iii. Identification and location of the properties on which the proposed MWET or LWET will be located.
 - iv. In the case of a condominium development, a copy of the condominium development's master deed and bylaws addressing the legal arrangement for the MWET or LWET.
 - v. The proposed number, representative types and height of each MWET or LWET to be constructed; including their manufacturer and model, product specifications including maximum noise output (measured in decibels), total rated capacity, rotor diameter, and a description of ancillary facilities.
 - vi. Documents shall be submitted by the developer/manufacturer confirming specifications for MWET or LWET tower separation.
 - vii. Documented compliance with the noise, and shadow flicker requirements set forth in this ordinance.
 - viii. Engineering data concerning construction of the MWET or LWET and its base or foundation; this may include, but not be limited to, soil boring data.
 - ix. A certified registered engineer shall certify that the MWET or LWET meets or exceeds the manufacturer's construction and installation standards.
 - x. Anticipated construction schedule.
 - xi. A copy of the maintenance and operation plan, including anticipated regular and unscheduled maintenance. Additionally, a description of the procedures that will be used for lowering or removing the MWET or LWET to conduct maintenance, if applicable.
 - xii. Documented compliance with applicable local, state and national regulations including, but not limited to, all applicable safety, construction, environmental, electrical, and communications. The MWET or LWET shall comply with Federal Aviation Administration (FAA) requirements, Michigan Airport Zoning Act (MCL 259.431 et seq.), Michigan Tall Structures Act (MCL 259.481 et seq.), and any applicable airport overlay zone regulations.
 - xiii. Proof of applicant's liability insurance.
 - xiv. Evidence that the utility company has been informed of the customer's intent to install an interconnected, customer-owned generator and that such connection has been approved. Off-grid systems shall be exempt from this requirement.
 - xv. Other relevant information as may be requested by the Township to ensure compliance with the requirements of this ordinance.
 - xvi. Following the completion of construction, the applicant shall certify that all construction is completed pursuant to the conditional use permit.

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- xvii. A written description of the anticipated life of each MWET or LWET; the estimated cost of decommissioning; the method of ensuring that funds will be available for decommissioning and site restoration; and removal and restoration procedures and schedules that will be employed if the MWET(s) or LWET(s) become inoperative or nonfunctional.
- xviii. The applicant shall submit a decommissioning plan that will be carried out at the end of the MWET's or LWET's useful life, and shall describe any agreement with the landowner(s) regarding equipment removal upon termination of the lease.
- xix. The Township reserves the right to review all maintenance plans and bonds under this ordinance to ensure that all conditions of the permit are being followed.
- xx. Signature of the applicant.
- xxi. In addition to the site plan requirements listed previously, the LWET shall be subject to the following:
- a. A site grading, erosion control and stormwater drainage plan will be submitted to the Zoning Administrator prior to issuing a conditional use permit for an LWET. At the Township's discretion, these plans may be reviewed by the Township's engineering firm. The cost of this review will be the responsibility of the applicant.
 - b. A description of the routes to be used by construction and delivery vehicles and of any road improvements that will be necessary to accommodate construction vehicles, equipment or other deliveries, and an agreement or bond which guarantees the repair of damage to public roads and other areas caused by construction of the LWET.
 - c. A statement indicating what hazardous materials will be used and stored on the site.
 - d. A study assessing any potential impacts on the natural environment (including, but not limited to, assessing the potential impact on endangered species, eagles, birds and/or other wildlife, wetlands and fragile ecosystems). The study shall conform to state and federal wildlife agency recommendations based on local conditions.

f) Certification and compliance.

- 1) The Township must be notified of a change in ownership of a MWET or LWET or a change in ownership of the property on which the MWET or LWET is located.
- 2) The Township reserves the right to inspect any MWET, and all LWETs, in order to ensure compliance with the ordinance. Any cost associated with the inspections shall be paid by the owner/operator of the WET.
- 3) In addition to the certification and compliance requirements listed previously, the LWET shall also be subject to the following:

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- i. A sound pressure level analysis shall be conducted from a reasonable number of sampled locations at the perimeter and in the interior of the property containing any LWETs to demonstrate compliance with the requirements of this ordinance. Proof of compliance with the noise standards is required within 90 days of the date the LWET becomes operational. Sound shall be measured by a third-party, qualified professional.
- ii. The LWET owner(s) or operator(s) shall provide the Township Zoning Administrator with a copy of the yearly maintenance inspection.

g) Public inquiries and complaints. Should an aggrieved property owner allege that the MWET or LWET is not in compliance with the noise and shadow flicker requirements of this ordinance, the procedure shall be as follows:

1) Noise complaint.

- i. Notify the Township in writing regarding concerns about noise level.
- ii. If the complaint is deemed sufficient by the Township to warrant an investigation, the Township will request the aggrieved property owner deposit funds in an amount sufficient to pay for a noise level test conducted by a certified acoustic technician to determine compliance with the requirements of this ordinance.
- iii. If the test indicates that the noise level is within ordinance noise requirements, the Township will use the deposit to pay for the test.
- iv. If the MWET or LWET is in violation of the ordinance noise requirements, the owner(s) shall reimburse the Township for the noise level test and take immediate action to bring the MWET or LWET into compliance which may include ceasing operation of the WET until ordinance violations are corrected. The Township will refund the deposit to the aggrieved property owner.

2) Shadow flicker complaint.

- i. Notify the Township in writing regarding concerns about the amount of shadow flicker.
- ii. If the complaint is deemed sufficient by the Township to warrant an investigation, the Township will request the owner(s) to provide a shadow flicker analysis of the turbine as constructed to determine compliance with the requirements of this ordinance.
- iii. If the MWET or LWET is in violation of the ordinance shadow flicker requirements, the owner(s) shall take immediate action to bring the MWET or LWET into compliance which may include ceasing operation of the WET until the ordinance violations are corrected.

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ARTICLE 30

SIDEWALKS

30.01 SCOPE AND APPLICABILITY

In all zoning districts except the Industrial zone, projects which require site plan review by the Planning Commission in accordance with Section 23.02 herein or projects for which a building permit is required, sidewalks shall be constructed on all sides of the property abutting a public street in accordance with the requirements of this Article 30.

30.02 INSTALLATION

a) Site plans shall include the construction of any required sidewalk along the entire site frontage of the street or streets abutting the parcel. All sidewalks shall be installed in accordance with the requirements of this Article prior to the issuance of a certificate of occupancy. If weather delays the sidewalk construction, the applicant shall provide the Township with a performance guarantee in accordance with Section 23.10.

b) All planning, engineering, construction, and related costs to install and maintain sidewalks shall be the responsibility of the property owner(s) of the property fronted by and adjacent to the sidewalks.

30.03 DESIGN STANDARDS

Sidewalks shall be a minimum of five feet wide, concrete, and constructed with a minimum thickness of four inches, increasing to six inches in areas that will be crossed by vehicles. Sidewalk designs shall meet or exceed minimum standards established by the Americans With Disabilities Act, as amended, or any other applicable law. Sidewalks shall be located within and along the outer edge of the road right-of-way where possible.

Precise sidewalk locations shall be determined by the zoning administrator or the planning commission when site plan review is required, by the Michigan Department of Transportation when it has jurisdiction, or by any other agencies with jurisdiction, because right-of-way widths are not consistent.

30.04 LEGAL NONCONFORMING SIDEWALKS

a) Continuance. Notwithstanding any other provision of this chapter to the contrary, any sidewalk which was erected legally and which exists at the time of enactment of this article, but which does not conform to this article, is deemed to be nonconforming and may continue to exist subsequent to that time, as provided by this section.

b) Nonexistence. Those properties which, at the enactment of this article, do not contain and are not adjacent to sidewalks but would have had to include sidewalks had this article been previously enacted, may continue to exist without sidewalks as provided in this section.

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c) Loss of legal nonconforming status. A legal nonconforming sidewalk shall immediately lose its legal nonconforming designation, and the right of a property to have no sidewalk shall immediately terminate, if any of the following occur:

- 1) The sidewalk is structurally altered in any way which tends to or makes it less in compliance with the requirements of this article than it was before.
- 2) The sidewalk is relocated to a position making it less in compliance with the requirement of this article.
- 3) The sidewalk is replaced.
- 4) The property with a nonexistent sidewalk is proposed for improvements which require site plan review.

On the happening of any one of the above-mentioned subsections (c)(1), (2), (3) or (4), the sidewalk shall be constructed or improved in compliance with this article.

30.05 LEGAL NONCONFORMING SIDEWALK MAINTENANCE AND REPAIR

Routine repair to maintain a legal nonconforming sidewalk in a safe and aesthetic condition exactly as it existed at the time of the enactment of this article and so as to continue the useful life of the sidewalk shall not constitute an alteration of the sidewalk for purposes of this article.

If damaged, a legal nonconforming sidewalk may be restored to the condition exactly as it existed immediately prior to the damage if the estimated cost of restoration does not exceed 50 percent of the estimated replacement cost as determined by the township, based on a written estimate from a licensed contractor. If the estimated cost of restoration exceeds 50 percent of the estimated replacement cost, the right to continue using the nonconforming sidewalk shall terminate and the sidewalk shall be brought into full compliance with all applicable provisions and requirements of this article.

30.06 MAINTENANCE.

No person shall permit any sidewalk which adjoins property owned by the person to fall into a state of disrepair or to be unsafe.

a) Repair

- 1) Whenever the zoning administrator shall determine that a sidewalk is unsafe for use, written notice may be given to the owner of the lot adjacent to the sidewalk. Thereafter, it shall be the duty of that property owner to place the sidewalk in a safe condition. The notice shall specify a reasonable time, not less than seven days, within which the work shall be commenced, and shall further provide that the work shall be completed with due diligence. This written notice requirement may be eliminated if the zoning administrator determines that the condition of the sidewalk is such that immediate repair is necessary to reasonably protect the public.
- 2) If the owner of the lot shall refuse or neglect to repair the sidewalk within the time limit, or immediately if the written notice is eliminated, or in a manner otherwise than in accordance with this article, the zoning administrator shall have the sidewalk repaired. The cost of such repairs shall be charged against the lot which the sidewalk adjoins and against the owner of that lot.

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b) Snow and ice control No person shall permit any snow or ice to remain accumulated on sidewalks within the public right-of-way on any side of any business, building, or lot owned, occupied, or controlled by that person longer than 24 hours after the snow or ice has fallen or formed. Where either snow or ice has fallen or formed on any such sidewalk, the person shall, within 24 hours after it has fallen or formed, remove the snow or ice, or cause a sufficient quantity of salt or salt substitute to be strewn upon it to render the sidewalk safe for persons to travel upon the sidewalk.

c) Obstructions A person who owns, occupies, or controls a business, building, or lot shall clear and keep clear any sidewalk adjoining the lot from any obstructions including, but not limited to, structures, vehicles, materials, debris, vegetation, or other similar item.

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ARTICLE 31

NONCONFORMING USES, BUILDINGS AND LOTS

31.01 GENERAL REGULATIONS.

a) The lawful use of any building or structure and of any land or premises as existing and lawful at the time of enactment of this ordinance, or in the case of an amendment of this ordinance, may be continued although such use does not conform with the provisions of this ordinance or the amendment.

b) Any building permit issued prior to the effective date of this ordinance shall be considered valid and any structure may be completed and used or occupied in accordance with plans so authorized by said building permits, provided that use or occupancy is on the basis for which the building permit was originally designated and provided that construction is begun within 60 days of the effective date of this Ordinance. Any such use which would become nonconforming by virtue of the passage of this ordinance shall thereafter be considered nonconforming and subject to the provisions of this ordinance.

c) In the event that any nonconforming use or building is discontinued or vacated for a period of one year and the owner has demonstrated an intent to abandon the nonconforming use or building, any subsequent use or building lot shall conform to the ordinance requirements for the district in which the premises are located. Such determination shall be made by the Zoning Administrator. Evidence of such intent may include, but is not limited to the following:

- 1) Disconnection of utilities;
- 2) Removal of building fixtures needed for the use;
- 3) Property falling into disrepair;
- 4) Elimination of newspaper or postal service;
- 5) Removal of signs.
- 6) Non-payment of property taxes

31.02 NONCONFORMING LOTS

a) All permitted principal and Conditional Land Uses, except for those Conditional Land Uses for which a minimum lot size is specified in this Zoning Ordinance, and customary accessory structures may be erected on any single lot of record after the effective date of adoption or amendment of this Zoning Ordinance. This provision shall apply even though such lot does not meet the requirements for lot area or width, or both, that are generally applicable in the district, provided that any building or structure constructed on the lot complies with all other applicable requirements of the zoning district including setbacks and lot coverage except as may be otherwise permitted herein.

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b) In any zoning district in which single-family dwellings are permitted, notwithstanding other requirements imposed by this ordinance, a single-family dwelling and customary accessory building may be erected on any nonconforming single lot of record which is not subject to Subsection 31.02(c).

For such lots the minimum side yard requirement may be reduced by the same percentage that the area of such lot bears to its own district requirements, provided each side yard in no instance shall be less than ten feet. All other required setbacks shall conform to district regulations.

c) If two or more lots, or combination of lots or portions of lots, located adjacent to each other are at any time held in common ownership, and if all or part of such lots do not satisfy the minimum requirements for a buildable lot in the zoning district in which they are located, then all of such lots shall automatically be considered to be combined for zoning purposes into one conforming lot, or one lot that is more nearly conforming than the individual lots.

d) Each individual lot which has been combined for zoning purposes under Subsection 31.02(c) of this Section shall cease to be considered a separate lot of record, and shall no longer be considered to be a buildable lot.

e) Lots combined for zoning purposes pursuant to this Section shall not thereafter be split, re-divided, or otherwise reduced in area unless all of the resulting lots comply with the minimum lot area requirement for a buildable lot in the district in which the land is located unless a lot is divided and legally combined with an adjacent lot or lots.

f) If two or more lots, or combination of lots or portions of lots, located adjacent to each other are at any time held in common ownership, then a single-family dwelling and a customary accessory building may be erected on any such lots provided all other applicable regulations of the zoning district are met.

31.03 NONCONFORMING BUILDINGS

a) In the event any nonconforming building or structure is damaged by fire, wind, act of God or other calamity, it may be rebuilt or restored in the same configuration as existed before the damage occurred if the replacement cost thereof does not exceed 50 percent of the replacement cost of the nonconforming building or structure, exclusive of the foundation, prior to its damage or destruction. The replacement cost shall be as determined by the Zoning Administrator or their agent.

b) In the event any nonconforming building or structure is damaged by fire, wind, act of God or other calamity to the extent that the replacement cost of the nonconforming building or structure exceeds 50 percent of the replacement cost of the building or structure, exclusive of the foundation, prior to such damage or destruction, the building or structure may be rebuilt or restored only in accordance with the requirements of this Zoning Code. The replacement cost shall be as determined by the Zoning Administrator or their agent.

However, the Zoning Board of Appeals may approve the re-establishment of such nonconforming building or structure, after a public hearing is held in accordance with the requirements of Article 33 herein, but only to the extent necessary to provide the minimum reasonable use of the building or structure. In considering the approval of any such re-establishment of a nonconforming building

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or structure, the Zoning Board of Appeals may impose reasonable terms and conditions and shall not permit an increase in the nonconformity.

c) Nonconforming buildings and structures shall not be enlarged or extended except after the approval of the Zoning Board of Appeals, which approval shall be granted only upon finding of all of the following facts:

- 1) The gross square footage of the alteration or enlargement does not exceed 50 percent of the gross square footage of the building which existed prior to the adoption of this section
- 2) The alteration or enlargement complies with all setback, height, parking, and other applicable regulations of the zoning district in which it is located and does not increase the extent of the nonconformity.

(d) Nothing in this Zoning Ordinance shall be deemed to prevent the normal repairs and maintenance on any nonconforming building or structure or prevent the strengthening or correcting of any unsafe condition of the building or structure.

31.04 NONCONFORMING USES

a) A nonconforming use shall not be enlarged or increased, nor extended to occupy a greater area of land than was occupied on the effective date of adoption or amendment of this Zoning Ordinance.

b) A nonconforming use shall not be moved in whole or in part to any other portion of the lot or parcel occupied by such use on the effective date of adoption or amendment of this Zoning Ordinance.

c) A nonconforming use may be changed to another nonconforming use of equal or less nonconformity, subject to the prior approval of the Zoning Board of Appeals following a public hearing as required by Article 33 of this Zoning Ordinance. The Zoning Board of Appeals may approve such change only if it complies with all of the following standards:

- 1) The proposed use is comparable to or more conforming than the existing use in terms of its operations and compatibility with the character of the area in which it is located;
- 2) The proposed use does not increase the degree of nonconformity existing prior to such change of use;
- 3) No structural alteration of the existing structure will be required to accommodate the new use.
- 4) In permitting such change, the Zoning Board of Appeals may require conditions and safeguards in accordance with the purpose and intent of this Zoning Ordinance.

d) A nonconforming use located in a conforming building or structure shall not be re-established if the building or structure is damaged by fire, wind, act of God or other calamity to the extent that the replacement cost of the building or structure *exceeds 50 percent* of the replacement cost of the building or structure prior to such damage or destruction. The replacement cost shall be as determined by the Zoning Administrator or their agent.

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e) Any nonconforming use shall not be extended or expanded throughout any part of a conforming building which was arranged or designed for such use, and which existed at the time of adoption or amendment of this Zoning Ordinance.

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ARTICLE 32

ZONING BOARD OF APPEALS

32.01 ZONING BOARD OF APPEALS

A Zoning Board of Appeals (“Board of Appeals”) is hereby established in accordance with Act 110 of the Public Acts of the State of Michigan for 2006, as amended, to carry out the responsibilities provided therefrom, and those delegated herein.

32.02 MEMBERSHIP

a) Membership to the Board of Appeals shall consist of not less than five members. The first member of the Board of Appeals shall be a member of the Planning Commission. The second member shall be a member of the Township Board and appointed by the Township Board. The third, fourth, and fifth members shall be selected and appointed by the Township Board from among the electors residing in the unincorporated area of the Township. The third, fourth, or fifth member, or any employee of the Board of Appeals, shall not serve while simultaneously serving as an elected official or employee of the Township Board.

b) Terms. Terms of office shall be three years, except that the first members appointed to the Board of Appeals shall stagger their terms of office with some serving one year, some serving two years and some serving three years respectively. The term of the Planning Commission member shall be limited to their term of office as a member of the Planning Commission.

c) Alternate Members.

The Township Board may appoint two alternate members to the Board of Appeals for the same term as regular members. An alternate member may be called as specified to serve as a member of the Board of Appeals in the absence of a regular member if the regular member will be unable to attend one or more meetings. An alternate member may also be called to serve as a member of the Board of Appeals for purposes of reaching a decision on a case in which a member has abstained for reasons of conflict of interest. The alternate member appointed shall serve in the case until a final decision is made. An alternate member when serving on the Board of Appeals shall have the same voting rights as a regular member.

d) Removal. A member of the Board of Appeals may be removed by the Township Board for misfeasance, malfeasance, or nonfeasance in office upon written charges and after a public hearing. A member shall disqualify himself or herself from a vote in which the member has a conflict of interest. Failure of a member to disqualify himself or herself from a vote in which the member has a conflict of interest constitutes malfeasance in office.

e) An employee or contractor of the Township shall not serve as a member of the Board of Appeals.

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f) A member of the Township Board who is also a member of the Board of Appeals shall not serve as chair of the Board of Appeals.

g) A member of the Board of Appeals who is also a member of the Planning Commission or the Township Board shall not participate in a public hearing on or vote on the same matter that the member voted on as a member of the Planning Commission or the Township Board. The member may consider and vote on the other unrelated matters involving the same property.

32.03 DUTIES AND RESPONSIBILITIES.

The Board of Appeals shall have all powers and jurisdiction granted under the Zoning Act (MCL 125.3201 et seq.), including the following:

a) The jurisdiction and power to hear and decide all questions that arise in the administration of this ordinance, including interpretation of the zoning maps.

b) The jurisdiction and powers to hear and decide matters as prescribed in other articles of this ordinance.

c) The jurisdiction and powers to hear and decide appeals from and review of any administrative order, requirement, decision or determination made by an administrative official or body charged with enforcement of this ordinance.

d) The Zoning Board of Appeals shall have no jurisdiction or authority to hear appeals from the final decision made by the Planning Commission or Township Board with respect to conditional uses and planned unit developments including any conditions attached to a conditional and planned unit developments.

However, the Zoning Board of Appeals may grant a variance from the requirements set forth for the specific standards for conditional uses in Article 24 of this Ordinance, provided the Zoning Board of Appeals finds that the request meets all of the standards for approval of a variance contained herein. Decisions by the Zoning Board of Appeals on requests for variances from the specific standards for conditional uses shall be made prior to the Planning Commission's consideration of the conditional use.

e) The jurisdiction and power to grant a nonuse variance where there are practical difficulties in the way of carrying out the strict letter of this ordinance so that the spirit of this ordinance shall be observed, public safety secured, and substantial justice done.

f) The power and authority to adopt rules of procedure.

g) The Board of Appeals shall not have the power or jurisdiction to do any of the following:

- 1) To grant a use variance.
- 2) To change or alter the zoning district classification of any property.
- 3) To make any change in the terms or language of this ordinance. (When called upon, the Board of Appeals may interpret the terms and language of this ordinance where there is some ambiguity as to its meaning and its application to a specific case.)

h) An appeal to the Board of Appeals may be taken by a person aggrieved or by an officer, department, board or bureau of the state or local unit of government.

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i) Any matters brought before the Board of Appeals under subsections 32.03 (a)-(e) of this section shall be brought as an appeal to the Board of Appeals and shall be heard and decided in accordance with those general and specific requirements and procedures of this division applicable to such case.

32.04 ORGANIZATION AND CONDUCT OF BUSINESS

a) Officers and Rules. The Zoning Board of Appeals shall annually elect its own chairperson, vice-chairperson, and secretary. The Board shall adopt its own rules of procedure and by-laws.

b) Meetings.

1) Meetings of the Zoning Board of Appeals shall be held at the call of the chairperson and at other times as the Zoning Board of Appeals in its rules of procedure may specify. The chairperson or, in his or her absence, the acting chairperson may administer oaths and compel the attendance of witnesses.

2) The Zoning Administrator or their representatives shall keep minutes of its proceedings showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact, and shall also keep records of its hearings and other official actions. Such records shall be filed with the Township Clerk.

c) The presence of three members shall constitute a quorum. The concurring vote of three members of the Board shall be necessary to reverse any order, requirement, decision or determination of the Zoning Administrator or to decide in favor of the applicant on any matter upon which it is required to pass by this Ordinance, or to grant variances from the terms of this Ordinance. A member shall disqualify themselves from a vote in which there is a conflict of interest.

d) Public Hearings.

1) Upon appeal, the Zoning Board of Appeals shall hold a public hearing on all matters referred to it, or upon which it is required to act. Notice of the hearing shall be as required by Article 33 herein.

2) For a request seeking an interpretation of the Zoning Ordinance or an appeal of an administrative decision, a notice of a public hearing shall be published in a newspaper of general circulation within the Township and shall be sent to the person seeking the interpretation or appeal not less than 15 days before the public hearing. In addition to the newspaper notice required by the above paragraph, if the request for an interpretation or appeal of an administrative decision involves a specific parcel, written notice stating the nature of the interpretation request and notice of the public hearing on the interpretation request shall also be sent by first-class mail or personal delivery to all persons to whom real property is assessed within 300 feet of the boundary of the property in question and to the occupants of all structures within 300 feet of the boundary of the property in question. If a tenant's name is not known, the term "occupant" may be used.

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32.05 APPLICATION REQUIREMENTS

- a) An application for an appeal may be submitted by a person aggrieved, or by an officer, department, or board of the Township. The application shall be filed with the Zoning Administrator and shall specify the grounds for the appeal.
- b) Variances, and other actions requiring a decision of the Zoning Board of Appeals shall be submitted to the Township on a form provided for that purpose and shall include a fee, as may be determined by the Township Board from time to time.
- c) Applications shall not be accepted unless all of the following information is submitted:
- 1) A completed application form (provided by the Township);
 - 2) An accurate, scaled site plan with enough information to clearly indicate the nature of the issue being considered. The Zoning Administrator shall determine the completeness of such plans.
 - 3) An application fee as may be determined by the Township Board from time-to-time.
 - 4) A written explanation from the applicant stating how the application meets the standards of Section 32.06.
- d) Applications shall be transmitted to the Zoning Board of Appeals, along with all the papers constituting the record upon which the action appealed was taken, and a public hearing scheduled in accordance with the procedures of this Chapter.
- e) Upon the day for hearing any application or appeal, the Board of Appeals may adjourn the hearing in order to permit the obtaining of additional information, or to cause such further notice as it deems proper to be served upon such other property owners as it decides may be interested in said application or appeal. In the case of any adjourned hearing, persons previously notified and persons already heard need not be notified of the time of resumption of said hearing unless the board so decides.
- f) An application for an appeal or variance, or any other action requiring Board approval shall stay all proceedings in furtherance of the matter to which the application applies unless the Zoning Administrator certifies to the Zoning Board of Appeals, after the application of appeal is filed, that by reason of facts present a stay would, in the opinion of the Zoning Administrator, cause imminent peril to life or property, in which case proceedings shall not be stayed otherwise than by a restraining order. This restraining order may be granted by the Zoning Board of Appeals or Circuit Court on application and with due cause shown.
- g) A request which has been denied by the Zoning Board of Appeals shall not be submitted for reconsideration within a six-month period from the date of the original application unless the Zoning Board of Appeals finds that at least one of the following conditions exist: That the conditions involving all of the reasons for the original denial have been significantly altered; or That new conditions or circumstances exist which change the nature of the original request.

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32.06 VARIANCES.

a) Subject to the provisions of this section, the Board of Appeals, after public hearing shall have the power to decide applications for variances filed as hereafter provided:

- 1) Where it is alleged by the appellant that there is error or misinterpretation in any order, requirement, decision, grant, or refusal made by the Zoning Administrator in the carrying out or enforcement of the provisions of this ordinance.
- 2) Where, by reason of exceptional narrowness, shallowness, or shape of a specific piece of property on the effective date of this article, or by reason of exceptional topographic conditions, or other extraordinary situation or condition of the land, building or structure, or of the use or development of property immediately adjoining the property in question, the literal enforcement of the requirements of this ordinance would involve practical difficulties or would cause undue hardships; provided, that the Board of Appeals shall not grant a variance on a lot of less area than the requirements of its zone district, even though such lot existed at the time of passage of this ordinance if the owner or members of his immediate family owned adjacent land which could without undue hardship be included as part of the lot.
- 3) Where there are practical difficulties or unnecessary hardship in the way of carrying out the strict letter of this ordinance relating to the construction, structural changes in equipment, or alterations of buildings or structures, so that the spirit of this ordinance shall be observed, public safety secured, and substantial justice done.
- 4) Where an applicant can present proof of a practical difficulty in the way of carrying out the strict letter of the Ordinance, the Zoning Board of Appeals, after a public hearing, shall have the power, in passing on appeals, to vary or modify any of its rules, regulations, or provisions, by granting a variance and in so doing ensure that the spirit of this chapter is observed, public safety secured and substantial justice done.

b) Variance Standards. In order to grant a variance as permitted by this section the Zoning Board of Appeals must find that all of the following standards have been met:

- 1) That there are exceptional or extraordinary circumstances or conditions applying to the property in question that do not apply generally to other properties in the same zoning district and that these conditions create a practical difficulty for the applicant in using the property for a permitted use.
- 2) That such variance is necessary for the preservation and enjoyment of a substantial property right similar to that possessed by other properties in the same zoning district and vicinity.
- 3) The possibility of increased financial return shall not of itself be deemed sufficient to warrant a variance.
- 4) That the immediate practical difficulty causing the need for the variance request was not created by any affirmative action of the applicant.
- 5) That the authorizing of such variance will not be of substantial detriment to adjacent property and will not materially impair the intent and purposes of this ordinance or the public interest.

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- 6) That the condition or situation of the specific piece of property for which the variance is sought is not of so general or recurrent a nature as to make reasonably practicable the formulation of a general regulation for such conditions or situation.

32.07 IMPOSITION OF CONDITIONS.

In authorizing a variance or exception, the Board of Appeals may, in addition to the specific conditions of approval called for in this ordinance, attach thereto such other reasonable conditions regarding the location, character, landscaping or treatment reasonably necessary to the furtherance of the intent and spirit of this ordinance and the protection of the public interest. Such conditions shall comply with the stipulations of Zoning Act (MCL 325.3201 et seq.).

32.08 TIME LIMITATIONS OF APPROVAL

Any variance granted by the Zoning Board of Appeals shall become void if the construction, occupancy or other actions authorized by such variance have not commenced within one year from the date when the variance was granted. The Zoning Board of Appeals, however, may grant an extension of the time period for not more than one year if the applicant files a request for an extension with the Zoning Administrator before the variance period expires and the Zoning Board of Appeals finds that an extension is warranted due to circumstances beyond the control of the applicant. Such request shall be considered at a public meeting of the Board of Appeals but a public hearing shall not be required.

32.09 APPEALS OF DECISIONS

The decision of the Zoning Board of Appeals shall be final. However, any person having an interest affected by any such decision may appeal to the circuit court to the extent and in the manner permitted by law. Such appeal shall be filed within 30 days after the Zoning Board of Appeals issues its decision in writing signed by the chairperson, or 21 days after the Zoning Board of Appeals approves the minutes of the decision, whichever comes first.

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ARTICLE 33

ADMINISTRATION AND ENFORCEMENT

33.01 REQUIREMENTS FOR NOTICE AND PUBLIC HEARINGS.

Whenever a public hearing is required or is granted by discretion under the provisions of this ordinance or the Zoning Act (MCL 125.3101 et seq.) relating to an application of request for zoning approval or other zoning action, notice of the public hearing shall be given as follows:

- a) The notice shall be published once, at least 15 days prior to the date of the public hearing, in a newspaper of general circulation in the Township.
- b) Except as provided in subsection (c) of this section, a notice of public hearing shall also be mailed or be delivered to the following persons, at least 15 days prior to the date of the public hearing:
 - 1) The owner of property for which approval is being considered, and the applicant, if different than the owner(s) of the property.
 - 2) All persons to whom real property is assessed within 300 feet of the property that is the subject to the application or request;
 - 3) The occupants of all structures within 300 feet of the property that is the subject of the application or request. In the case of a single structure containing more than four dwelling units or other distinct spatial areas owned or leased by different individuals, partnerships, businesses or organizations, notice may be given to the manager or owner of the structure who shall be requested to post the notice at the primary entrance to the structure. In structures containing four or fewer dwelling units, only one occupant of each unit must be given notice for a public hearing.
 - 4) For amendments to this ordinance, notice shall be mailed to each electric, gas, and pipeline public utility company, each telecommunications service provider, each railroad operating with the district or zone affected, and the airport manager of each airport, that registers its name and mailing address with the clerk of the legislative body for the purpose of receiving notice of public hearing.
 - 5) If the above-described 300-foot radius extends outside of the Township's boundaries, then notice must be provided outside of the Township's boundaries, within the 300-foot radius, to all persons in the above-stated categories.
- c) The notice of public hearing shall include the following information:
 - 1) A description of the nature of the application or request.
 - 2) An identification of the property that is the subject of the application of request. Except as provided in subsection (c)(1) below, the notice shall include a listing of all existing street addresses within the property. Street addresses do not need to be created and listed if no

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such addresses currently exist within the property and another means of identification of the property shall be used.

- 3) State when and where the application or request will be considered.
- 4) Identify when and where written comments will be received concerning the application or request.
- 5) The notice shall indicate the place where and the times when the proposed text or map amendment may be examined.
- 6) When a proposed rezoning involves 11 or more adjacent properties, the mailing or delivery requirement of subsections (b)(2) and (b)(3) of this ordinance are not required, and the listing of individual property addresses under subsection (c)(2) is not required.
- 7) Except as otherwise permitted under the Open Meetings Act (MCL 15.261 et seq.)
- 8) Each hearing shall be conducted during an open meeting of the Board or commission considering the subject of the hearing.

d) The purpose of any public hearing shall be:

- 1) To provide an opportunity for the applicant or the applicant's representative or attorney to be heard in support of the application or request.
- 2) To receive any comments from the administrative staff concerning the application or request.
- 3) To receive any comments from residents, property owners and other persons that may be in attendance concerning the application or request.

e) Public hearings shall be conducted in accordance with applicable procedures contained in the Zoning Act (MCL 125.3101 et seq.), contained in this ordinance, or as set forth in any rules of procedure adopted by the Board or commission conducting the public hearing.

33.02 AMENDMENTS.

a) Townships in Michigan are established with authority to operate under the provisions of section 17, article VII of the Michigan Constitution of 1963 as amended. Charter Townships are established and operate in accordance with the Charter Township Act (MCL 42.1 et seq.).

For the purposes of this ordinance, the Township Board in accordance with the Michigan Planning Enabling Act (MCL 125.3801 et seq.) and the Michigan Zoning Enabling Act (MCL 123.3101 et seq.) may provide for and maintain or may appoint a Planning Commission, Zoning Board of appeals and a Zoning Administrator to develop, maintain and administer the zoning ordinance, to report any recommendations to the Township Board and to perform such other duties and have such other responsibilities as provided by statute or the provisions of this ordinance.

b) Zoning ordinance amendment or map change.

- 1) *Initiation of request for ordinance amendment or zoning map change.*

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- i. This ordinance may be amended from time to time in accordance with the Zoning Act (MCL 125.3101 et seq.). Amendments to the ordinance may be initiated by the Township Board or the Planning Commission. Any interested person(s) may also initiate an amendment to the text of this ordinance or to the zoning maps by applying to the Planning Commission for the amendment.
 - ii. The application shall be filed with the Zoning Administrator. In case of an ordinance text amendment, a letter shall be submitted which shall contain the requested change and the reason for such change. In case of a zoning map change, an application shall be submitted which shall describe the property involved, the zone changes requested, and the reason for such change. Also accompanying the application shall be plans, drawings or other data pertinent to the request. Such plans, data and statement shall indicate in necessary detail the type of use, size, location and estimated time until occupancy of the proposed use.
- 2) *Amendment or zoning change procedure.* Before submitting a recommendation (report) to the Township Board for an amendment to the zoning ordinance or zoning maps, the Planning Commission shall comply with the applicable provisions of the Zoning Act (MCL 125.3101 et seq.).
 - 3) *Recommendation by Planning Commission.* Following a public hearing for each proposed zoning change, the Planning Commission shall submit the application, a summary of the public hearing comments and its recommendation for approval or denial of the zoning change to the Township Board. A copy of the recommendation shall be sent to the county Planning Commission as provided by the Zoning Act (MCL 125.3101 et seq.).
 - 4) *Township Board action.* Upon receipt of the recommendation (report) from the Planning Commission, the Township Board shall comply with the Zoning Act (MCL 125.3101 et seq.) in making its decision on a proposed amendment.
 - 5) *Publication requirements.* Following the adoption of an amendment to this ordinance, one notice of adoption shall be published in a newspaper in general circulation in Pere Marquette Charter Township within 15 days after adoption, and a copy of such notice of adoption shall also be mailed to the airport manager of any airport entitled to notice under Section 33.01(b)(4) of this ordinance. The notice shall include the following information:
 - i. Either a summary of the regulatory effect of the amendment including the geographic area affected, or the text of the amendment.
 - ii. The effective date of the ordinance amendment.
 - iii. The place and time where a copy of the ordinance may be purchased or inspected.
 - 6) *Effective date of amendments.* An amendment of this ordinance on the zoning maps shall be effective upon the expiration of seven days after the publication of such amendment or at such later date as the Township Board shall specify.
 - 7) *Effect of denial of zoning change.* In the event that the request for a zoning change is denied wholly or in part by the Township Board, an application for a permit for the same zoning change shall not be resubmitted for a period of one year from the date of said order

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of denial, except on the grounds of new evidence or proof of changed conditions found to be valid by the Planning Commission and the Township Board.

33.03 ZONING ADMINISTRATOR.

a) Appointment and authority. The Zoning Administrator may also be the Building Inspector, ordinance enforcement officer, or any other official who shall be charged with administering this ordinance. The Zoning Administrator may be employed in accordance with the Charter Township Act (MCL 42.1 et seq.) or the Zoning Act (MCL 125.3101 et seq.).

b) Duties and responsibilities.

1) The Zoning Administrator shall be responsible for the updating and maintenance of the master copy of the zoning ordinance text and maps. They shall be thoroughly familiar with the provisions of this ordinance in order to administer it adequately.

2) The Zoning Administrator shall make periodic checks of all properties in the Township to ensure compliance with this ordinance. Any violations of this ordinance shall be reported in writing to the Township Board for further action. The Zoning Administrator shall have the authority to issue a stop order, which may be removed only by the Zoning Administrator or by action of the Township Board. The Zoning Administrator shall review all applications for building permits to ensure that the proposed use is in compliance with the terms of this ordinance.

3) The Zoning Administrator shall receive all requests for rezoning, ordinance amendments, variances, [and] conditional use permits and forward these requests to the proper Board or commission. They shall, under no circumstances, be permitted to make any changes in any part of this ordinance or to vary the terms of this ordinance in carrying out his duties as Zoning Administrator.

4) The Zoning Administrator shall act as a non-voting advisor to the Township Board, Planning Commission and Zoning Board of appeals. Any information, data or statements presented to these bodies by the Zoning Administrator shall be purely advisory in nature for the purpose of clarification and coordination and will not restrict decisions made by these bodies.

5) In the case of denying a zoning permit for failure to comply with the minimum setback requirements of Article 19 herein, the Zoning Administrator shall inform the property owner of the right to appeal and the conditions under which an appeal will be considered. The Zoning Administrator shall further inform the Zoning Board of Appeals and the Michigan Department of Environment, Great Lakes and Energy at the time an appeal is filed. Written notice of an exception request from the minimum required setback distance shall be given to Michigan Department of Environment, Great Lakes and Energy at least 14 days prior to the hearing before the Zoning Board of Appeals.

33.04 BUILDING INSPECTOR.

a) Appointment and authority. The Building Inspector may also be the Zoning Administrator, ordinance enforcement officer or any other official who shall be charged with administering this ordinance.

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b) Duties and responsibilities.

1) Unless otherwise provided for, the Building Inspector of the Charter Township of Pere Marquette shall administer and enforce the provisions of the state construction code and the International Property Maintenance Code as adopted by the Township, as well as all provisions of this ordinance as designated within the Charter Township of Pere Marquette.

2) The Building Inspector shall be responsible for the issuance of all permits for building, remodeling, site preparation, and for any other activity for which a permit is required by this ordinance or any other Township ordinance, and for the collection of permit fees and deposits. The Building Inspector shall inspect the project sites as necessary and shall issue a certificate of completion following final inspection and acceptance.

3) The Building Inspector shall act as a nonvoting advisor to the Township Board, Planning Commission and zoning Board of appeals. Any information, data or statements presented to these bodies by the Building Inspector shall be purely advisory in nature for the purpose of clarification and coordination and will not restrict decisions made by these bodies. The Building Inspector shall also coordinate the administration and enforcement of Township ordinances with the Zoning Administrator.

4) The Building Inspector in the case of denying a building permit for failure to comply with the minimum setback requirements of Article 19 herein shall inform the property owner of the right to appeal, the conditions under which an appeal will be granted, and shall further inform the zoning Board of appeals and the Michigan Department of Environment, Great Lakes and Energy when an appeals action is to be initiated. Written notice of the appeal from the minimum setback requirement shall be given to the Michigan Department of Environment, Great Lakes and Energy at least 14 days prior to the hearing before the zoning Board of appeals.

33.05 BUILDING PERMITS.

A building permit shall be valid for one year from the date of approval. If construction has not commenced and proceeded meaningfully toward completion within the one-year period the permit shall be voided and a new permit must be obtained. However, a building permit may be renewed prior to expiration by applying for a renewal to the Building Inspector prior to the expiration date.

Building permits shall be nontransferable. The Township Board shall set fees for both the original permit and the renewal permit.

33.06 PENALTIES

a) Any building or structure which is erected, moved, placed, reconstructed, raised, extended, enlarged, altered, maintained or used, or any use of a lot or land which is begun, maintained or changed in violation of any term or provision of the ordinance is hereby declared to be a nuisance per se.

Any person who violates, disobeys, omits, neglects, or refuses to comply with, or resists the enforcement thereof shall be responsible for a municipal civil infraction subject to enforcement procedures as set forth in the municipal civil infraction ordinance adopted by the Township

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in chapter 2, article IV, division 2 of this Code, and a fine of \$50.00, plus costs and other sanctions, for each infraction.

b) Each day during which any violation continues after due notice has been served shall be deemed a separate and distinct violation. Increased civil fines may be imposed for repeated violations of this Code; a repeat violation means a second or subsequent municipal civil infraction violation committed by a person within any 12-month period and for which a person admits responsibility or is determined to be responsible. The increased civil fine for repeat violation shall be as follows:

1) The fine for any offense which is a first repeat offense shall be \$250.00, plus costs and other sanctions;

2) The fine for any offense which is a second repeat offense or any subsequent repeat offense shall be \$500.00, plus costs and other sanctions.

c) The Township Zoning Administrator, members of the Mason County Sheriff's Department assigned to the Township, members of the Mason County Sheriff's Department whose services are contracted by the Township and any other individuals who may from time to time be appointed by resolution of the Township Board are hereby designated as the authorized Township officials to issue municipal civil infraction citations (directing alleged violators to appear in court).

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ARTICLE 34

REPEAL and EFFECTIVE DATE

34.01 SEVERABILITY.

Should any section or provision of this Zoning Chapter of the Code be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the Zoning Chapter as a whole, or any other section or part thereof.

34.02 REPEAL OF CONFLICTING ORDINANCES.

All ordinances or parts of ordinances in conflict with this Zoning Chapter, or inconsistent with the provisions of this Zoning Chapter, are hereafter repealed to extent of their inconsistency. The former Zoning Chapter 109 of the Code, as amended, is hereby repealed.

34.03 EFFECTIVE DATE

This Zoning Chapter shall become effective seven days after its publication or seven days after the publication of a summary of its provisions in a local newspaper of general circulation, except as the effective date is extended in accordance with Section 402 of the Michigan Zoning Enabling Act, Public Act 110 of 2006, as amended.

Adopted: August 13, 2019.

Effective Date: August 25, 2019.

ORDINANCE DECLARED ADOPTED.

Paul A. Keson, Township Supervisor

Date_____

Rachelle Enbody, Township Clerk

Date_____

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ARTICLE 35

SCHEDULE OF ZONING DISTRICT REGULATIONS

Zoning District	Minimum Lot Area (square feet)	Minimum Lot Width (feet)	Minimum Front Setback For Principal Buildings (feet)	Minimum Rear Setback For Principal Buildings (feet)	Minimum Side Setback For Principal Buildings (feet)	Maximum Building Height (feet)	Minimum Floor Area
A-1 Agricultural Single family dwellings and all other permitted principal uses	1 acre	150	40	40	20	35	See Sec. 5.08
A/R Agricultural/Residential - Single family dwellings and all other permitted principal uses. - Cemeteries (1)	1 acre 5 acres	150 NA	40	40	20	35	See Sec. 6.05
R-1 Low Density Residential Single family dwellings and all other permitted principal uses	15,000	80	40	30	15	35	See Sec. 7.05
R-2 Medium Density Residential - Single family dwellings and all other permitted principal uses. - Two family dwellings	12,000	65	25	25	10	35	
Epworth Heights Resort Residential District	NA	NA	50 feet from all lot lines	50 feet from all lot lines	50 feet from all lot lines	NA	NA
I-Industrial	1 acre	100	50	40	30	60	NA
P-S Professional Services District	21,780	100	50	25	15	60	NA
C-1 & C-2 Commercial Districts	21,780	100	50	25	15	60	NA
HAR Harbor District	1 acre	NA	40	40	40	60	NA
AP Airport District	1 acre	100	50	50	50	60	NA
Pump Storage District	1 acre	100	50	50	50	60	NA

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