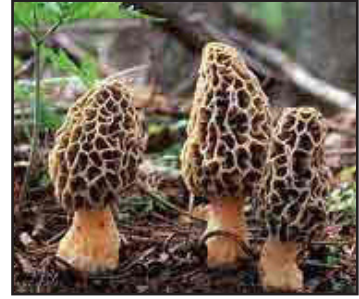


# Mason County



## DRAFT ZONING ORDINANCE

November 24, 2009

**MASON COUNTY ZONING ORDINANCE  
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**ARTICLE I**  
**TITLE, PURPOSES, AND LEGAL CLAUSES**

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**Section 1.01 Short Title.**

This Ordinance shall be known and may be cited as the Mason County Zoning Ordinance.

**Section 1.02 Repeal of Ordinance.**

The Mason County Zoning Ordinance, effective March 3, 1972 and all amendments thereto, are hereby repealed effective coincident with the effective date of this Ordinance.

**Section 1.03 Statement of Purposes.**

1. To promote the public health, safety, morals, and general welfare.
2. To encourage the use of lands in accordance with their character and capabilities and to limit the improper use of land.
3. To avoid overcrowding of population.
4. To lessen congestion on the public roads and streets.
5. To reduce hazards to life and property.
6. To reasonably consider the character of each district, its peculiar suitability for particular uses, the conservation of property values and natural resources, and the general and appropriate trend and character of land, building, and population development.

**Section 1.04 Scope.**

No building or structure or part thereof, shall hereafter be erected, constructed, reconstructed or altered, and no building, structure, or land, or part thereof, shall be used except in conformity with the provisions of this Ordinance. Any building or structure for which a zoning permit has been issued and the construction of the whole or a part of which has been started, or for which a contract or contracts have been entered into pursuant to a zoning permit issued prior to the effective date of this Ordinance, may be completed and used in accordance with the plans and application on which said zoning permit was granted. Any use not specifically listed as a permitted or special use in a particular zoning district is assumed to be prohibited in that district. The Mason County Townships covered by this Ordinance are Amber Township, Branch Township, Custer Township, Eden Townships, Free Soil Township, Logan Township, Meade Township, Riverton Township, Sheridan Township, Sherman Township, Summit Township and Victory Township.

**Section 1.05 Lot Use Limitation.**

In all zoning districts which permit single family and two family residences, only one principal structure shall be placed on a parcel or a lot of record. No building shall be erected on land divided or subdivided in violation of a Land Division Act, Act 288, Public Acts of 1967, as amended.

**Section 1.06 Validity and Severability Clause.**

If any court of competent jurisdiction shall declare any part of this Ordinance to be invalid, such ruling shall not affect any other provisions of this Ordinance not specifically included in said ruling. If any court of competent jurisdiction shall declare invalid the application of any provision of this Ordinance to a particular land, parcel, lot, district, use, building, or structure, such ruling shall not affect the application of

said provision to any other land, parcel, lot, district, use, building, or structure not specifically included in said ruling.

#### **Section 1.07 Interpretation.**

The interpretation and application of the provisions of this Ordinance shall be held to be minimum requirements adopted for the promotion of the public health, morals, safety, comfort, convenience, or general welfare.

#### **Section 1.08 Conflict with Other Laws.**

It is not intended by this Ordinance to repeal, annul, or in any way to impair or interfere with any existing provision of law or ordinance other than the above described Zoning Ordinance, or with any rules, regulations, or permits previously adopted or issued or which shall be adopted or issued pursuant to the law relating to the use of buildings or premises.

Provided, however, that where this Ordinance imposes a greater restriction than is required by existing Ordinance or by rules, regulations, or permits, the provisions of this Ordinance shall control.

#### **Section 1.09 Vested Rights.**

Nothing in this Ordinance should be interpreted or construed to give rise to any permanent vested rights in the continuation of any particular use, district, zoning classification, or any permissible activities therein; and, they are hereby declared to be subject to subsequent amendment, change, or modification as may be necessary to the preservation or protection of public health, safety, and welfare.

#### **Section 1.10 Fees, Charges, and Expenses.**

Fees, charges, and expenses shall be assessed as part of the application for special use permits, site plan review, appeals, building permits, certificates of zoning compliance, and amendments to defray expenses incurred in processing such application.

The County Board of Commissioners by resolution shall establish a schedule of fees, charges, and expenses. The schedule of fees, charges, and expenses may be altered or amended by resolution duly adopted by the County Board of Commissioners.

No action shall be taken on any application or appeal until all applicable fees, charges, and expenses have been paid in full.

## ARTICLE II INTERPRETATIONS AND DEFINITIONS

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### **Section 2.01 Interpretations.**

The following rules of construction apply to the text of this Ordinance:

1. The particular shall control the general.
2. In case of any difference of meaning or implication between the text of this Ordinance and any caption or illustration, the text shall control.
3. The word "shall" is always mandatory and not discretionary. The word "may" is permissive.
4. Words used in the present tense shall include the future; and words used in the singular number shall include the plural, (and the plural number shall include the singular) unless the context clearly indicates the contrary.
5. The phrase "used for" includes "arranged for," "designed for," "intended for," "maintained for," or "occupied for."
6. The word "person" includes an individual, a corporation, a limited liability company, a partnership, an incorporated association, or any other similar entity.
7. Unless the context clearly indicates the contrary, where a regulation involves two (2) or more items, conditions, provisions, or events connected by the conjunction "and," "or," or "either...or," the conjunction shall be interpreted as follows:
  - a. "And" indicates that all the connected items, conditions, provisions, or events shall apply.
  - b. "Or" indicates that the connected items, conditions, provisions, or events may apply singly or in any combination.
  - c. "Either...or" indicates that the connected items, conditions, provisions, or events shall apply singly but not in combination.
8. Terms not herein defined shall have the meaning assigned to them by the Webster's Collegiate Dictionary, most recent edition. In addition, any word or term not interpreted or defined by this Ordinance shall be used with a meaning of common or standard utilization. A dictionary may be consulted.
9. The terms his and her shall be used interchangeably and shall be considered to have the same meaning.
10. The words "this Ordinance" means the text of this Ordinance as well as all maps, tables, graphics, and schedules as included or attached as enacted or subsequently amended.
11. In computing a period of days, the first day is excluded and the last day is included. If the last day of any period is a Saturday, Sunday, or legal holiday, the period is extended to include the next day which is not a Saturday, Sunday, or legal holiday.

### **Section 2.02 Definitions.**

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

**Access:** A way or means of approach to provide vehicular or pedestrian entrance or exit to a property from a public roadway. (1-1-08)

**Access, Cross:** An access between abutting properties. (1-1-08)

**Access Management:** The process of providing and managing reasonable access to land development while preserving the flow of traffic in terms of safety, capacity, and speed on the abutting roadway system. (1-1-08)

**Access Management Advisory Group:** Professional staff representing the Mason County Road Commission, Mason County Sheriff's Office, the Mason County Drain Commission, the Michigan Department of Transportation and other county, township, city and village staff as appropriate. (1-1-08)

**Access Point:** The point of connection of a driveway or access to a road right-of-way, shared driveway, or service drive. (1-1-08)

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

**Accessory Structure:** A detached structure on the same lot with, and of a nature customarily incidental and subordinate to, the principal structure.

**Accessory Use:** A use which is clearly incidental to, customarily found in connection with, and (except in the case of accessory off-street parking spaces) located on the same zoning lot as the principal use to which it is related. An accessory use includes, but is not limited to, the following:

1. Residential accommodations for servants and/or caretakers.
2. Swimming pools for the use of the occupants of a residence or their guests.
3. Domestic or agricultural storage in a barn, shed, tool room, or similar accessory building or other structure.
4. Storage of merchandise normally carried in stock in connection with a business or industrial use, unless such storage is excluded in the applicable district regulations.
5. Storage of goods used in, or produced by, industrial uses or related activities, unless such storage is excluded in the applicable district regulations.
6. Personal gardens not used for commercial sale.
7. Accessory off-street parking spaces.
8. Accessory off-street loading space.
9. Accessory signs, subject to the sign regulations for the district in which the zoning lot is located.
10. No more than one commercial vehicle or trailer.
11. Satellite dishes or television or radio antennae for the use of occupants of a residence or place of business.
12. Uses clearly incidental to a main use such as, but not limited to, offices of an industrial or commercial complex located on the same site.

**Acreage:** Any tract or parcel of land which has not been subdivided or platted.

**Addition:** An extension or increase in floor area or height of a building or structure.

**Adult:** A person having arrived at the legal age of adulthood defined by the laws of the State of Michigan.

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

1. An **Adult Book Store** is a use which has a display containing books, magazines, periodicals, newspapers, slides, pictures, cassettes, videotapes, videodiscs, motion picture films, or other printed, recorded, or electronic material which has as a significant portion of its content or exhibit matter or actions depicting, describing, or relating to "Specified Sexual Activities" or "Specified Anatomical Areas" or an establishment with a substantial segment or section devoted to the sale or display of such material. Retail establishments which display, sell, distribute, provide, or rent such material within an enclosed area not greater than five (5) percent of the total usable retail space, which is limited to persons eighteen (18) years of age or older, shall not be included in this definition.
2. An **Adult Cabaret** is a nightclub, theater, or other establishment which features live performances by one or more topless and/or bottomless dancers, "go-go" dancers, exotic dancers, strippers, or similar entertainers, wait staff, or other persons, where a significant portion of such performances show, depict, or describe "Specified Sexual Activities" or "Specified Anatomical Areas."
3. An **Adult Mini-Motion Picture Theater** is an enclosed building with a capacity for less than fifty (50) persons used for presenting motion picture films, video cassettes or tapes, cable television, or other visual display depicting, describing, or presenting "Specified Sexual Activities" or "Specified Anatomical Areas."
4. An **Adult Model Studio** is any place where, for any form of consideration or gratuity, figure models who display "Specified Anatomical Areas" are provided to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by persons paying such considerations or gratuities, except that this provision shall not apply to any bona fide art school or similar educational institution.
5. An **Adult Motel** is a motel wherein matter, actions, or other displays are presented which contain a significant portion depicting, describing, or relating to "Specified Sexual Activities" or "Specified Anatomical Areas."
6. An **Adult Motion Picture Arcade** is any place to which the public is permitted or invited wherein coin or slug operated or electronically or mechanically controlled still or motion picture machines, projectors, video machines, or other image producing devices are maintained to show images to five (5) or fewer persons per machine at any one time, and where a significant portion of images so displayed depict, describe, or relate to "Specified Sexual Activities" or "Specified Anatomical Areas."
7. An **Adult Motion Picture Theater** is an enclosed building with a capacity of fifty (50) or more persons used for presenting motion picture films, videotapes or cassettes, cable television, or other visual display depicting or relating to "Specified Sexual Activities" or "Specified Anatomical Areas" for observation by patrons therein.
8. An **Adult Novelty Business** is any establishment which offers for sale devices which stimulate human genitals or devices designed for sexual stimulation.
9. An **Adult Personal Service Establishment** is any business, agency, or service which arranges, solicits, or provides for the benefit of its customers or clients, escorts, dates, models, unlicensed therapists, companions, or entertainers, either on or off the premises, for the purpose of engaging in

"Specified Sexual Activities" or "Specified Acts of Violence," or displaying "Specified Anatomical Areas" as defined herein. These establishments include, but are not limited to, escort services, exotic rubs, modeling, tattoo parlors, body painting studios, wrestling studios, baths, and theatrical performances.

10. An **Adult Physical Culture Establishment** is any establishment, club, or business by whatever name designated, which provides, offers, or advertises, or is equipped or arranged so as to provide as part of its services, either on or off the premises, massages, body rubs, physical stimulation, baths, tattoos, or other similar treatment by any person. The following uses shall not be included within the definition of an adult physical culture establishment:
  - a. Establishments which routinely provide such services by a licensed physician, a licensed chiropractor, a licensed osteopath, a licensed or certified physical or massage therapist, a licensed practical nurse, or any other similarly licensed medical professional;
  - b. Electrolysis treatment by a licensed operator of electrolysis equipment;
  - c. Continuing instruction in martial or performing arts or in organized athletic activities;
  - d. Hospitals, nursing homes, medical clinics, or medical offices; and,
  - e. Barber shops or beauty parlors, health spas, and/or salons which offer massage to the scalp, face, the neck, or shoulders only.
11. An **Adult Sexual Encounter Center** is any business, agency, or person who, for any form of consideration or gratuity, provides a place where three or more persons, not all members of the same family, may congregate, assemble, or associate for the purpose of engaging in "Specified Sexual Activities" or exposing "Specified Anatomical Areas."
12. A **Restricted Adult Business** is any of the defined adult entertainment uses, which are not customarily open to the public generally, but only to one or more classes of the public, excluding any minor by reason of age.

**Adult Foster Care Facility:** A governmental or non-governmental establishment that provides foster care to adults, it includes facilities and foster care homes for adults who are aged, mentally ill, developmentally disabled, or physically handicapped, and who require supervision on an ongoing basis, but who do not require continuous nursing care. An adult foster care facility does not include nursing homes, homes for the aged, hospitals, alcohol or substance abuse rehabilitation centers, or residential centers for persons released from or assigned to a correctional facility.

1. **Adult Foster Care Family Home:** A private residence with the approved capacity to receive six (6) or fewer adults to be provided with foster care for five (5) or more days a week and for two (2) or more consecutive weeks. The adult foster care family home licensee must be a member of the household and an occupant of the residence.
2. **Adult Foster Care Large Group Home:** An adult foster care facility with approved capacity to receive at least seven (7) but not more than twenty (20) adults to be provided supervision, personal care, and protection, in addition to room and board, for twenty-four (24) hours a day, five (5) or more days a week and for two (2) or more consecutive weeks for compensation.
3. **Adult Foster Care Small Group Home:** An adult foster care facility with the approved capacity to receive six (6) or fewer adults who are provided supervision, personal care, and protection, in addition to room and board, for twenty-four (24) hours a day, five (5) or more days a week and for two (2) or more consecutive weeks for compensation.

**Agribusiness:** Businesses catering exclusively to the agricultural community. They may include, but not necessarily be limited to, grain elevators, the processing of farm products, the sale of seed and feed, and livestock auctioning.

**Agricultural Equipment Sales and Service:** An establishment for the repair or sale of equipment or machinery directly associated with the operation of a farm.

**Agricultural Storage Facilities:** A building or structure or part of a building or structure used for the storage of agricultural products to be later sold or distributed for use by other than the person producing the products. This definition shall include commercial grain elevator facilities but shall not include on-site storage facilities for individual farming operations.

**Agricultural Planned Unit Development:** Residential development allowed in the Agricultural Zoning District which incorporates open space of at least fifty (50) percent.

**Airports, Landing Fields:** A place where aircraft can land and take off, usually equipped with hangars, facilities for refueling and repair, and various temporary accommodations for passengers and/or flight crews.

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

**Ambient:** Ambient is defined as the sound pressure level exceeded 90% of the time or  $L_{90}$ .

**Animals, Wild:** An animal not typically bred or raised by humans.

**Apartment:** See Dwelling Unit.

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

**Appurtenance:** The visible, functional, or ornamental objects accessory to and part of a building.

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

**Arterial Road:** Roads that gather traffic from local streets and/or move larger volumes of traffic through the County.

**Assembly Hall:** Assembly halls shall include facilities intended for entertainment including dance halls, pool or billiard parlors, roller rinks, banquet halls, exhibition halls, and assembly halls without fixed seats.

**Auction Sales Establishments:** A place where objects of art, furniture, and other goods are offered for sale to persons who bid on the object in competition with each other.

**Automobile Sales, Storage:** ~~See Open Air Business Use. The use of any building, land area, or other premise for the display and sale of new or used automobiles generally, but may include light trucks or vans, trailers, or recreation vehicles, and including any vehicle preparation or repair work conducted as an accessory use.~~

**Automobile Service Station:** Any building, land area, other premises, or portion thereof, used for the retail sales of gasoline, oil, grease, batteries, tires, and other operational fluids and accessories for automobiles, and the installation of such items, and for other minor automobile repair not to include auto refinishing, body work or painting, dismantling of vehicles for the purpose of reuse or resale of parts, or

storage of automobiles other than those in for immediate repair. Such use shall be permitted to include an additional retail use, which may include, but not be limited to, a restaurant, gift shop, or convenience store.

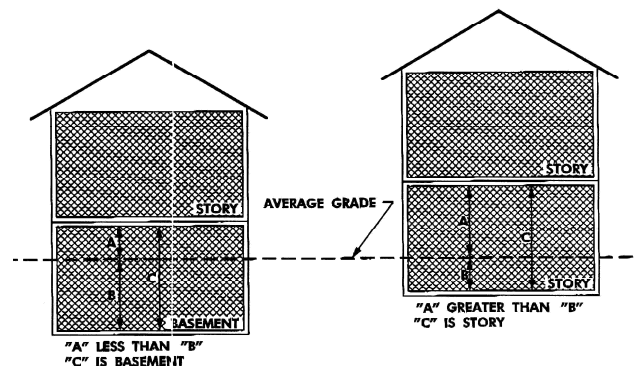
**Automobile Service Station, Accessory Retail Use:** The sale of food items commonly consumed by travelers (i.e., soft drinks, candy, packaged snacks, and fast-foods, etc.), bread, milk, juice, cigarettes, and sundry items, and/or automobile wash facilities provided in connection with a gasoline filling station or gasoline service station, provided such use(s) is clearly incidental to the principal use.

**Automobile Repair Garage:** Any building, premises, and land in which or upon which a business, service, or industry involving the maintenance, servicing, repair, or painting of vehicles is conducted.

**Bank (including drive through):** A financial institution, including credit union, that is open to the public and engaged in deposit banking, and that performs closely related functions such as making loans, investments, and fiduciary activities.

**Basement:** That portion of a building which is partly or wholly below grade but so located that the average vertical distance from the grade to the floor is greater than the average vertical distance from the grade to the ceiling; provided, however, that if the average vertical distance from the grade to the ceiling is five (5) feet or more, such basement shall be considered as a story. Refer to Illustration 2-1.

**Illustration 2-1. Basement and Story**



**Bedroom:** A private room planned and intended for sleeping, separated from other rooms by a door, and accessible to a bathroom without crossing through another bedroom. Bedrooms shall meet all BOCA requirements.

**Bed and Breakfast Lodgings:** A structure which was constructed for, and is used as, a single-family residence and is occupied by the owner but which may be used as temporary lodging for travelers/guests. Bedrooms are rented on a nightly basis with breakfast, as regulated and limited by the State, included in the price of the room subject to the limitations outlined in the Ordinance.

**Berm:** A mound of earth, a minimum of eighteen (18) inches in height, graded, shaped, and improved with sod or landscaping in such a fashion as to provide a visual and/or audible screen and a transition between uses of differing intensity.

**Blight:** For the purpose of this Ordinance, this term shall mean any motor vehicles, machinery, appliances, tires, products or merchandise with parts missing; or scrap metals or materials that are damaged or deteriorated; or vehicles or machines in a condition which precludes their use for the purpose



for which they were manufactured located on any property not licensed as a salvage or junk yard. (See also salvage material.)

**Boarding stables:** A structure designed for the feeding, housing, and exercising of horses not owned by the owner of the premises and for which the owner of the premises receives compensation.

**BOCA:** Building Officials Code Administration. The building code used by the County for all construction except one and two family dwellings.

**Bond (also Performance Bond):** Any security that may be required by the County to assure that improvements required as part of an application for development will be satisfactorily completed.

**Breezeway:** A roofed structure for the purpose of connecting the main or principal building or structure on a property with other buildings or structures, a breezeway shares similar design and construction with the main or principal building or structure and is usually fully enclosed in Michigan.

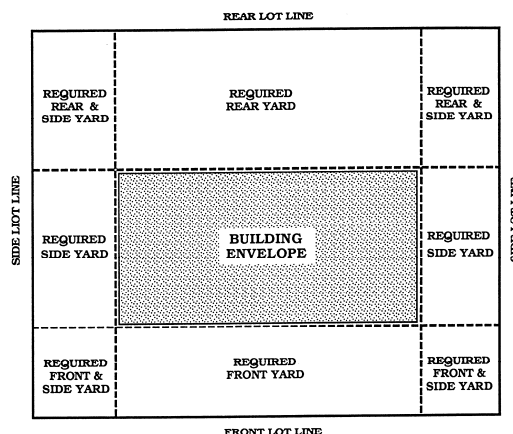
**Buffer Zone:** See Greenbelt.

**Buildable Area:** See Building Envelope.

**Building:** Any structure, either temporary or permanent, above or below ground, having a roof supported by columns, walls, or any other supports, which is used for the purpose of, or capable of, housing, sheltering, storing, or enclosing persons, animals, or personal property, or carrying on business activities. This definition includes, but is not limited to, mobile homes, tents, sheds, garages, greenhouses, vehicles situated on private property and used for the purposes of a building, and other principal or accessory structures. This definition of building shall not include structures of less than six (6) square feet, such as a doghouse.

**Building Envelope:** The space remaining after compliance with the minimum required setbacks and the minimum open space requirements of this Ordinance. Refer to Illustration 2-2.

**Illustration 2-2. Building Envelope**



**Building Face:** The general outer surface of a main exterior wall of a building. For example, a building with a rectangular plan has four main exterior walls and four building faces.

**Building Height:** The vertical distance measured from the average ground level of the grade at the building wall to the highest point of the roof surface, including cupolas or other architectural features. For the purposes of this Ordinance, height shall be determined from the front side of the structure.

**Building Width:** Building width is the building measurement from exterior wall to exterior wall, excluding roof or eave overhang, also referred to in this Ordinance as building face width.

**Building Line:** A line established, in general, parallel to the front lot line at the minimum front yard setback distance. For the purposes of this ordinance, a minimum building line shall be the same as a front setback line.

**Building Site:** A lot, parcel of land, or combination or portion of the two, which is used for the construction of a single principal structure.

**Building Size:** Building size, unless otherwise specifically stated, shall refer to the ground floor area as measured in square feet.

**Cabin:** ~~Any structure or tent which is maintained, offered, or used for dwelling or sleeping quarters for transients, or for temporary dwelling, but not including what are commonly designated as hotels, lodging houses, or tourist homes.~~

**Camp Operator:** A person who owns, establishes, operates, conducts, manages, or maintains an agricultural labor camp or who causes or permits the occupancy or use of an agricultural labor camp whether or not rent is charged for housing and facilities.

**Camp Operator Dwelling:** A dwelling occupied by a camp operator.

**Campground:** A parcel of land on which more than four (4) recreational vehicles, trailer coaches, camper-trailers, tents or other types of temporary shelter are located, used and occupied for outdoor camping and temporary living quarters for recreational, educational or vacation purposes. (10-25-06)

**Car wash:** Any building or premises or portions thereof used for washing vehicles.

**Casino:** A room or rooms in which legal gambling is conducted.

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

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

**Change of Use:** Any use of a building, structure, land, or any portion thereof, which is substantially different from the previous use, in terms of density, intensity of use, volume or type of vehicles, noise, dust, odor, light or other characteristics, which requires a change in the way it is classified in this Ordinance or in the State Building Code, as amended. (1-1-08)

**Child Care Center:** See Day Care Center

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

**Clinic:** An establishment where human ~~or animal~~ patients are admitted for examinations and treatment on an outpatient basis by one or more physicians, dentists, ~~veterinarians~~, other medical personnel, psychologists, or social workers, and where patients are not usually lodged overnight.

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

**Cluster Housing:** A residential development design that concentrates buildings in specific areas on a site to allow remaining land to be used for recreation, common open space, or the preservation of historically or environmentally sensitive features.

**Commercial Cottages or Cabins:** Any structure or tent which is maintained, offered, or used for dwelling or sleeping quarters for transients, or for temporary dwelling, but not including what are commonly designated as hotels, lodging houses, or tourist homes.

**Common Elements:** Portions of a condominium project other than condominium units, as described in the condominium master deed as required by state law.

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

**Composting Facilities:** A facility dealing with the controlled process of degrading organic matter by microorganisms.

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

**Condominium Documents:** All those documents required by the Michigan Condominium Act and its amendments from time to time.

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

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

**Condominium Subdivision Plan:** The drawings and information required by the Michigan Condominium Act and its amendments from time to time. For the purpose of this Ordinance, a condominium subdivision plan shall be equivalent to the term "condominium plan."

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

**Contractor's Equipment Storage Yards:** Any land or buildings used primarily for the storage of equipment, vehicles, machinery, building materials, paints, pipe, or electrical components used by the owner or occupant of the premises in the conduct of any building trades or building craft.

**Convalescent Homes:** A facility that provides, on a regular basis, personal care, including dressing and eating and health related care and services, to individuals who require such assistance, but who do not

require the degree of care and treatment that a hospital. This use shall also include hospice and/or palliative care facilities.

**Corral:** A pen or enclosure for confining animals or livestock, but not a grazing area.

**County:** Mason County

**County Board:** The Mason County Board of Commissioners.

**County Engineer:** Person appointed by the County for the purpose of performing specific or temporary engineering services.

**Crop Farming:** Growing cultivated plants or agricultural produce, such as grain, vegetables, or fruit.

**Cul-de-sac Street:** A street terminated on one end with a turning radius.

**Day Care Home, Family Home:** A private home in which more than one (1) but less than seven (7) minor children are received for care and supervision for periods of less than twenty-four (24) hours a day, unattended by a parent or legal guardian, except children related to an adult member of the family by blood, marriage, or adoption. Family day care home includes a home that gives care to an unrelated minor child for more than four weeks during a calendar year.

**Day Care Home, Group Home:** A private home in which more than six (6) but not more than twelve (12) minor children are given care and supervision for periods of less than twenty-four (24) hours a day unattended by a parent or legal guardian, except children related to an adult member of the family by blood, marriage, or adoption. Group day care home includes a home that gives care to an unrelated minor child for more than four weeks during a calendar year.

**Decibel:** The unit of measure used to express the magnitude of sound pressure and sound intensity. (5-30-08)

**Deck:** A structure abutting a dwelling with no roof or walls, except for railings, which is constructed on piers or a foundation above-grade for use as an outdoor living area.

**Density:** The number of dwelling units situated on, or to be developed on, a net acre (or smaller unit) of land, which shall be calculated by taking the total gross acreage and subtracting the area in rights-of-way for streets and roads.

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

**Dimensional Standards:** Numerical requirements relating to spatial relationships, including but not limited to setback, lot area, frontage, lot width, lot area, and building height.

**Direct Access:** Access not requiring trespass over adjacent property or rights-of-way.

**Dirt Bike Track:** Any parcel of land where dirt bikes are operating in a manner consistent with recreational operations, or any parcel of land where the landscape has been altered consistent with that of a dirt bike track.

**Display:** As used in connection with Adult Entertainment Use, the word display shall mean any single motion or still picture, presentation, dance or exhibition, live act, or collection of visual materials such as books, films, slides, periodicals, pictures, video cassettes, or any other printed or recorded matter which is open to view or available to the general population whether for free or otherwise.

**District:** A portion of the County within which certain uses of land and buildings are permitted and within which certain regulations and requirements apply under the provisions of this Ordinance. Also known as a zone or zoning district.

**Dormitory:** A building used as group living quarters for a student body or religious order as an accessory use for a college, university, boarding school, convent, monastery, or other similar institutional use.

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

**Driveway:** A means of access for vehicles from a public right-of-way to or from a single lot or parcel that is located and constructed in accordance with the requirements of this Ordinance. (1-1-08)

**Driveway Offset:** The distance between the centerline of two driveways on opposite sides of an undivided roadway. (1-1-08)

**Driveway, Shared:** A driveway serving two or more lots or parcels. (1-1-08)

**Dry Cleaning Plant:** An establishment used or intended to be used for cleaning fabrics, textiles, wearing apparel, or articles of any sort by immersion and agitation, or by immersions only, in volatile solvents including, but not by way of limitation, solvents of the petroleum distillate type, and/or the chlorinated hydrocarbon type, and the process incidental thereto.

**Dwelling:** A building or a portion thereof which is occupied as the home, residence, or sleeping place of one or more human beings, either permanently or as transients. In no case shall a travel trailer, recreational vehicle, automobile chassis, or tent be considered a dwelling. In the case where a building is occupied in part as a dwelling unit, the part so occupied shall comply with the provisions relative to dwellings.

1. **Dwelling, Attached:** A single-family dwelling attached to two (2) or more single-family dwellings by common vertical walls.
2. **Dwelling, Detached:** A dwelling which is not attached to any other dwelling by any means.
3. **Dwelling, Multiple-Family:** A building containing three (3) or more dwelling units designed for residential use where each unit may have access to common hallways, stairs, and elevators, or in a low-rise building, where each unit may have individual access to a street or common courtyard.
4. **Dwelling, Single-family:** A building designed, arranged or occupied as a dwelling unit for one family only.
5. **Dwelling, Two-Family:** A structure on a single lot containing two (2) dwelling units, each of which is totally separated from the other by an unpierced wall extending from ground to roof or an unpierced ceiling and floor extending from exterior wall to exterior wall, except for a common stairwell exterior to both dwelling units.

**Dwelling Unit:** A room or rooms within a dwelling connected together, constituting separate independent living quarters for one household, physically separated from any other rooms or dwelling units, and containing permanent provisions for its own independent bathroom, sleeping, and kitchen facilities.

**Easement:** A grant of one (1) or more of the property rights by the property owner to and/or for the use by the public, a corporation, or another person or entity.

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

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

**Family:** A group of individuals not necessarily related by blood, marriage, adoption, or guardianship living together in a dwelling unit as a single housekeeping unit and having an intentionally structured relationship providing organization and stability, but excluding a group occupying a boarding house, lodging house, dormitory, club, fraternity/sorority, or hotel/motel.

**Farm:** All of the contiguous neighboring or associated land operated as a single unit on which farming is carried on directly by the owner operator, manager, or tenant farmer, by his own labor or with the assistance of members of his household or hired employees. Farms may be considered as including cultivating of soil; growing and harvesting of any agriculture, horticulture, or floriculture commodity; dairying; raising of livestock, bees, fish, fur-bearing animals, or poultry; turf and tree farming; and performing any practices on a farm as an incident to, or in conjunction with, these farming operations. Commercial storage, processing, distribution, marketing, or shipping operations shall not be considered part of the farming operation. No farm shall be operated for the disposal of garbage, sewage, rubbish, or offal, or for rendering plants, or for the slaughtering of animals except such animals as have been maintained on the premises thereto for the use and consumption by persons residing on the premises.

**Farm Buildings:** Any building or structure erected other than a dwelling, moved upon, maintained, used, or erected on a farm which is essential and customarily used on farms of that type for the pursuit of their agricultural activities.

**Farm Dwelling:** A single-family dwelling that is located on and is used in connection with a farm.

**Farm Equipment Sales and Service:** Establishments selling, renting or repairing agricultural machinery, equipment, and supplies for use in soil preparation and maintenance, the planting and harvesting of crops, and other operations and processes pertaining to farming and ranching.

**Farm Operation:** A condition or activity which occurs on a farm in connection with the commercial production of farm products, and includes, but is not limited to, marketed produce at roadside stands or farm markets; related noise, odors, dust and fumes; operation of machinery and irrigation pumps; ground and aerial seeding and spraying; the application of chemical fertilizers, conditioners, insecticides, pesticides, and herbicides; and the employment and use of labor.

**Farm Market:** A building or other enclosure, including incidental outdoor sales area and off-street parking area, designed and used for the seasonal display and sale of vegetables, fruit, plants, flowers and other produce from farms and other agricultural enterprises, including the display and sale of other incidental merchandise generally associated with or related to farm produce and products, small arts and crafts items and other permitted merchandise. (10-25-06)

**Farm Stand:** A temporary commercial establishment primarily engaged in the sale of agricultural produce (seeds, fruits, vegetables) grown on the premises or on property owned by the Farm Stand operator.

**Fence:** An built enclosure or barrier, such as wooden posts, wire, iron, etc, used as a boundary, means of protection, privacy screening or confinement, but not including hedges, shrubs, trees, or other natural growth.

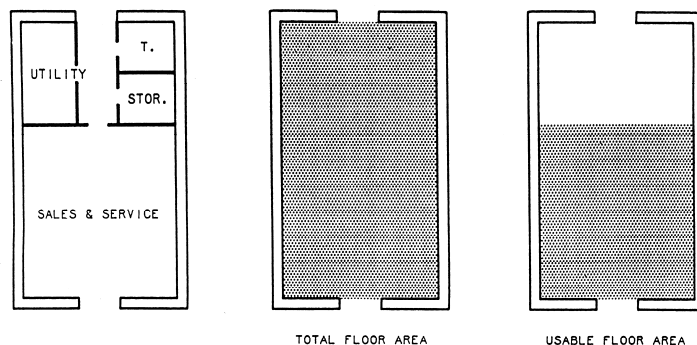
**Floor Area, Gross:** Area measured to the exterior face of exterior walls and to the centerline of interior partitions; plus, similarly measured, that area of all other stories having more than eighty-four (84) inches of

headroom which may be made usable for human habitation; but excluding the floor area of basements, attics, garages, breezeways, porches, and accessory buildings.

**Floor Area, Minimum:** Floor area minimums required in each district shall apply to the main floor gross floor area.

**Floor Area, Usable:** For the purpose of computing parking, is that area used for, or intended to be used for, the sale of merchandise or services, or for use to serve patrons, clients, or customers. This excludes accessory floor area which is used, or intended to be used, principally for the storage or processing of merchandise. Hallways, utility and sanitary facilities, dance floors, stages, or other areas that do not generate any additional parking demand beyond that required for the primary use shall also be excluded from this computation of "Usable Floor Area." Measurement of usable floor area shall be the sum of the horizontal areas of the several floors of the building, measured from the interior faces of the exterior walls. Refer to Illustration 2-4.

**Illustration 2-4. Usable Floor Area**



**Forest Industry:** Any commercial enterprise resulting from the harvesting or cultivating of woodlands, including sawmills.

**Forest Management:** The application of business methods and forestry principles to the operation of a forest property for the purpose of maintaining forest resources and producing a continuous supply of forest products. Forest management practices include but are not limited to site preparation, planting, harvesting, road construction, insect and disease control, inventory, and fire protection.

**Front Building Face Area:** The facade of the building facing the front line calculated as its width multiplied by the building height.

**Frontage:** See Lot Frontage.

**Frontage Road or Front Service Drive:** A local street/road or private road typically located in front of principal buildings and parallel to an arterial for service to abutting properties for the purpose of controlling access to the arterial. (1-1-08)

**Fuel Storage or Well:** Any combination of storage tanks or containers, including pipes connected thereto, which is used to contain petroleum or other flammable liquids; and/or, a natural reservoir or common supply of oil or gas.

**Funeral Homes:** A building used for the preparation of the deceased for burial and the display of the deceased and rituals connected therewith before burial or cremation.

**Funneling:** Funneling is defined as the use of an inland waterfront property, parcel or lot as common open space for waterfront access for a larger development located away from the waterfront. More particularly, funneling includes, but is not limited to, the use of a waterfront property, parcel or lot for waterfront access by the owners, lessees, or licensees (or by members of the family or occasional guests of any such persons) or any of the following types of property:

1. Waterfront property under a separate legal description on the County Tax Roll or property accrued under separate deed on file with the County Register of Deeds, as of the effective date of this ordinance.
2. Nonriparian property, as of the effective date of this ordinance.
3. Properties separated from shoreline properties by a public road.

**Garage, Private:** Any building for the storage of self-propelled vehicles or trailer coaches where no storage or servicing for hire is conducted.

**Garage, Public:** Any garage which is not private.

**Golf Course Driving Range:** A limited area on which golf players drive golf balls from a central driving tee; and including the driving tee and other incidental activities pertaining to this activity.

**Golf Course:** A tract of land laid out with at least nine (9) holes for playing a game of golf and improved with tees, greens, fairways, and hazards. A clubhouse and shelters are customarily included as accessory uses.

**Governmental Agency:** Any department, commission, independent agency, or instrumentality of the United States, of a state, county, incorporated or unincorporated municipality, County, authority, district, or governmental unit.

**Grade:** The ground elevation established for the purpose of regulating the number of stories and the height of the building. The building grade shall be the level of the ground adjacent to the walls of the building if the finished grade is level. If the ground is not entirely level, the grade shall be determined by averaging the elevation of the grade for each face of the building.

**Greenbelt:** A strip of land of definite width and location reserved for plant material, berms, walls, or fencing to serve as a visual and/or sound barrier between properties, often between abutting properties of distinct intensity.

**Greenhouse:** A building whose roof and sides are made largely of glass or other transparent or translucent material and in which the temperature and humidity can be regulated for the cultivation of delicate or out-of-season plants for subsequent sale or for personal enjoyment.

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

**Hobby Farm:** A farm, as defined herein, that is maintained for pleasure rather than as a primary source of income.

**Home Based Businesses:** An occupation or business activity conducted within a dwelling or otherwise on the land where a dwelling is located, and consisting of a base of operations from which to conduct the primary and substantial part of the occupation or business elsewhere, and other permitted on-site business activity not qualifying as a home occupation. 10-25-06)



**Home Occupation:** An occupation traditionally or customarily carried on in a dwelling as a use clearly incidental and secondary to the use of the dwelling for single family residential purposes, and which does not change the nature or character of the dwelling (10-25-06)

**Hospice:** See Convalescent Home.

**Hospital:** An institution or place where sick or injured in-patients are given medical or surgical care at either public or private expense, and operating under license from the Michigan Department of Public Health.

~~**Hospital, Veterinary:** A state licensed place where animals are given medical care and the boarding of animals is limited to short term care incidental to the hospital use.~~

**Hotel:** An establishment that provides lodging and may provide meals and other personal services. Such establishment has individual guest rooms that are accessed from inside the structure. (10-24-05)

**Household:** A household includes all persons who occupy a house, an apartment, a group of rooms, or a single room occupied as separate living quarters, regardless of the relationship to one another.

**Hunting Preserve:** Public or private land reserved for recreational hunting or fishing. See also Recreation Facility, Public or Private.

**Incinerator:** A device used to burn waste substances and in which all the combustion factors – temperature, retention time, turbulence, and combustion air – can be controlled. An incinerator is sometimes used to produce energy.

**Indoor Recreation:** A commercial recreational land use conducted entirely within a building, including an arcade, arena, athletic and health club, bowling alley, community center, gymnasium, pool or billiard hall, skating rink, swimming pool, sport courts, etc.

**Industrial Park:** A planned industrial development on a tract of land containing an internal road network suitable for trucks and employee traffic, adequate utilities, and communication lines, and including a sufficient water supply, sanitary and storm sewers, and electric and natural gas lines.

~~**Intensive Animal Feeding Operation:** Refer to GAAMPS (Generally Accepted Agricultural and Management Practices) regulations for amended definition. The feeding of livestock, poultry, or small animals for commercial purposes usually in lots, pens, ponds, sheds or buildings where food is supplied primarily by means other than grazing, foraging, or other natural means.~~

**Junkyard:** The term "junkyard" includes automobile wrecking yards, and includes any area of more than two-hundred (200) square feet for the storage, keeping, or abandonment of junk, including scrap metals or other scrap materials, or for the dismantling, demolition, or abandonment of motorized vehicles, machinery, or parts thereof, but does not include uses established entirely within enclosed buildings. This definition does not include legally licensed salvage yards.

~~**Kennel:** Any lot or premises on which four (4) or more dogs, four (4) months old or older, are kept permanently or temporarily.~~

**Keeping of Animals:** The act of having animals on site per Section 3.19.

**Kennel, Small (Private):** Any lot or premises on which not less than four (4) but not more than ten (10) dogs, four (4) months old or over, that are owned by the resident, are kept.

**Kennel, Commercial or Boarding:** Any lot or premises on which four (4) or more dogs, four (4) months old or over are kept either temporarily or permanently for sale, boarding, breeding, training, competition, or showing.

**Landscaping:** The modification or ornamentation of the natural groundcover and flora.

**Laundromat:** An establishment providing washing, drying, or dry-cleaning machines on the premises for rental use to the general public.

**Library:** An establishment which lends reading material, music, and related products to the public for no fee, and which may also provide related services and part-time social activities.

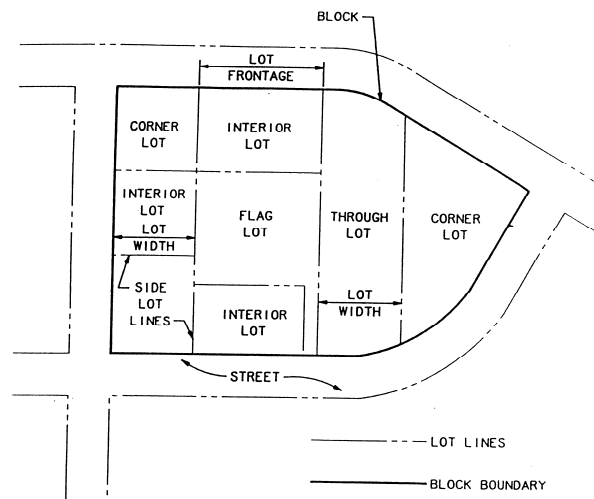
**Livestock:** Domestic animals, such as cattle, horses, sheep, hogs, chickens, geese, or goats raised and/or boarded for home use or for profit.

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

**Lot:** A "plat," "tract," "parcel," or "site condominium unit" occupied, or intended to be occupied, by a main building or a group of such buildings and accessory buildings, together with such yards and open spaces as are required under the provisions of this Ordinance. A lot may or may not be specifically designated as such on public records. Refer to Illustration 2-5.

1. **Lot, Corner:** A lot located at the intersection of two (2) streets, or a lot bounded on two (2) sides by a curving street, and any two (2) chords of which form an angle of one-hundred thirty-five (135) degrees or less.
2. **Lot, Flag:** A lot not meeting minimum frontage requirements and where access to the public road is by a narrow, private right-of-way or driveway.
3. **Lot, Interior:** Any lot other than a corner lot.
4. **Lot, Through:** Any interior lot having frontage on two (2) more or less parallel streets as distinguished from a corner lot. In the case of a row of double frontage lots, all yards of said lots adjacent to streets shall be considered frontage, and front yard setbacks shall be provided as required.
5. **Lot, Waterfront:** A lot, any part of which abuts a lake, stream, river, or any natural or artificial watercourse. (10-24-05)
6. **Lot, Zoning:** A single tract of land, located within a single block which, at the time of filing for a zoning permit, is designated by its owner or developed as a tract to be used, developed, or built upon as a unit, under single ownership or control. A zoning lot shall satisfy this Ordinance with respect to area, size, dimensions, and frontage as required in the district in which the zoning lot is located. A zoning lot, therefore, may not coincide with a lot of record as filed with the County Register of Deeds, but may include one (1) or more lots of record.

#### **Illustration 2-5. Lot Types**



**Lot Area, Gross:** The total area contained within the lot lines or property boundary, including street rights-of-way.

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

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

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

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

**Lot Line (Front):** The front lot line shall mean the line separating such a lot from the street right-of-way or, in the case of a private street, the line measured at thirty (30) feet from the centerline of the pavement. Where lots border upon bodies of water, a river, or a canal, the front lot line shall be designated as the line fronting on the street.

**Lot Line (Rear):** Ordinarily, that lot line which is opposite and most distant from the front lot line of the lot. In the case of an irregular, triangular, or flared lot, the rear lot line shall be a line at least ten (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 that is not a front lot line or a rear lot line.

**Lot of Record:** A lot which actually exists in a subdivision plat as shown on the records of the County Register of Deeds, or a lot or parcel described by metes and bounds, the description of which has been so recorded. Whenever an owner has combined two (2) or more lots as contained on any recorded plat into a single building site, or combined two (2) or more lots contained on any recorded plat in the records of the County Assessor or Treasurer, said combination of lots shall be deemed to be a single lot of record for the purposes of this Ordinance.

**Lot Size Averaging:** The allowance for a change in lot area and width in a development, but with the average lot area meeting the minimum area as required in this Ordinance for that particular zoning district.

**Lot Width:** The horizontal distance between the side lot lines, measured at the two points where the building line, or setback, intersects the side lot line.

**Machine Shop:** An establishment engaged in mechanically cutting and fabricating a material to achieve a desired geometry or shape through power-driven tools, including lathes, milling machines, and drill presses.

**Manufactured Home:** A factory built, single-family dwelling that meets the national manufactured Home Construction and Safety Standards Act, commonly known as the HUD (U.S. Department of Housing and Urban Development) Code and constructed after 1976.

**Manufacturing Facilities:** Enclosed eEstablishments engaged in the mechanical or chemical transformation of materials or substances into new products, including the assembling of component parts, the creation of products, and the blending of materials, such as lubricating oils, corrosives, plastics, resins, or liquors, usually in a continuous and regular action or succession of actions.

~~**Marina:** A facility for the storing, servicing, fueling, berthing, and securing of boats, and that may include eating, sleeping, and retail facilities for owners, crews, and guests.~~

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

**Master Plan:** See Comprehensive Plan.

**Migrant Farm Laborer:** A person working, or available for work in a farm operation, who moves seasonally one or more times from one place to another from within or without the state for the purposes of such farm operation employment.

**Migrant Labor Housing/Camp:** Seasonal dwellings established and used as living quarters, which are licensed by the Michigan Department of Agriculture (MDA) for migratory laborers and their immediate family (spouse, grandparent, and/or children) who are engaged in agricultural activity, including related food processing.

**Mini-Warehouse:** A facility consisting of a building or a group of buildings in a controlled-access compound, where individual stalls or lockers are rented out to different tenants for the dead storage of customers' goods and wares. The use of the premises shall be limited to storage only, and shall not be used for any auction, or sales, or storage and transfer business; for the servicing, repair, or fabrication of any vehicle, boat, trailer, appliance, or similar item; or for the operation of power tools, compressors, kilns, or similar equipment; except that limited sales to tenants of products and supplies incidental to the principal use, such as packing materials, identification labels, rope, locks, tape, etc., shall be permitted on the site devoted to this use. The storage of combustible or flammable liquids, combustible fibers, or explosive materials, as defined in the fire protection code, or toxic materials is expressly prohibited.

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

**Mobile/Manufactured Home Park:** A parcel or tract of land under the control of an individual, partnership, association, trust, corporation, or any other legal entity or combination of legal entities upon

which three (3) or more mobile/manufactured homes are located on a continual, non-recreational basis, and which is offered to the public for that purpose regardless of whether a charge is made therefore, together with any building, structure, enclosure, street, equipment, or facility used or intended for use incidental to the occupancy of a mobile/manufactured home or trailer coaches.

**Mobile/Manufactured Home Site (Mobile/Manufactured Home Lot):** A parcel of land, within a mobile/manufactured home park, designed for the placement of a single mobile/manufactured home.

**Modular (Pre-Manufactured) Dwelling:** A dwelling unit constructed solely within a factory, as a single unit, or in various sized modules or components, which are then transported by truck or other means to a site where they are assembled on a permanent foundation to form a single-family dwelling unit, and meeting all Michigan Building codes and regulations applicable to conventional single-family home construction.

**Motel:** A building or a group of buildings operated and used as a unit to furnish overnight sleeping accommodations, primarily for transient occupancy. The term motel shall include tourist cabins, motor courts, motor lodges, and similar facilities, but it shall not include rooming houses, boarding houses, tourist homes, apartments, or multiple dwellings. A motel will generally have individual entrances from outside the building to serve each sleeping or living unit. Not more than ten percent (10) of the units shall have kitchenettes or cooking facilities.

**Motor Home:** See Recreational Vehicle.

**Motor Vehicle:** A self-propelled device used for transportation of people or goods over land or water surfaces and licensed as a motor vehicle.

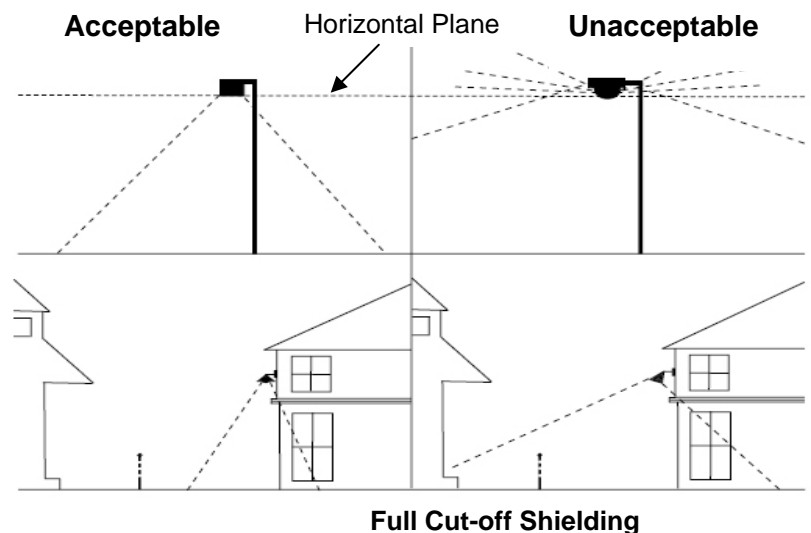
**Mud Bogging Track:** Any parcel of land where vehicles are operating in a manner consistent with mud bogging recreational operations, or any parcel of land where the landscape has been altered consistent with that of a mud bogging track.

**Night Sky Compliant:** Night sky compliant lighting is lighting with full cut-off shielding that preserves the restful quality of nighttime by avoiding intrusive, artificial light and glare.

**Nonconforming Building:** A building or portion thereof that lawfully exists at the effective date of this Ordinance, or affecting amendment, that does not conform to the current provisions of the Ordinance in the district in which it is located.

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

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



**Nuisance:** Something not allowed by ordinance because it would cause harm or offense, either to people in general or to a private individual.

**Nursery:** A building or structure, and lands associated therewith, for the growing of flowers, fruits, vegetables, plants, shrubs, trees, or similar vegetation together with gardening tools and implements which are sold at retail from such building or lot to the general public.

**Nursery School:** See Day Care Center.

**Nursing Home:** A nursing care facility, including a county medical care facility, but excluding a hospital or a facility created by Act No. 152 of the Public Acts of 1985, as amended, being Sections 36.1 to 36.12 of the Michigan Compiled Laws, which provides organized nursing care and medical treatment to seven (7) or more unrelated individuals suffering or recovering from illness, injury, or infirmity.

**Occupied:** The word "occupied" includes arranged, designed, built, altered, converted to, rented or leased, or intended to be occupied.

**Office:** A place, such as a building, room, or suite, in which services, clerical work, professional duties, or the like are carried out.

**Off-Street Parking Lot:** A facility providing vehicular parking spaces along with adequate drives and aisles for maneuvering, so as to provide access for entrance and exit for the parking of more than three (3) vehicles.

**On-Site Transient Docking Facility:** A temporary off-street parking area approved during the site plan review process.

**On Site Use Wind Energy Systems:** An On Site Use wind energy system is intended to primarily serve the needs of the consumer. An on-site use wind energy system with a tower height of 45 meters (150 feet) or higher shall be considered a Utility Grid Wind Energy System for siting purposes (refer to Section 17.48 of this Ordinance). (5-30-08)

**Open Air Business Use:** An open air business use, as used herein, shall be deemed to include any of the following businesses when said business is not conducted from a wholly enclosed building:

1. Bicycle, trailer, motor vehicle, boats, or home equipment sale or rental services.
2. Outdoor display and sale of storage buildings, swimming pools, and similar uses.
3. Sale of trees, fruits, vegetables, shrubbery, plants, seed, topsoil, humus, fertilizer, trellis, lawn furniture, playground equipment, and other home garden supplies and equipment.
4. Tennis courts, archery courts, shuffleboard, horseshoe courts, miniature golf, golf driving range, children's amusement park, or similar recreation uses.

**Open Front Store:** A business establishment so developed that service to the patron may be extended beyond the walls of the structure, not requiring the patron to enter the structure. The term "Open Front Store" shall not include automobile repair or gasoline service stations.

**Open Space:** Any parcel or area of land or water essentially unimproved and set aside, dedicated, designated, or reserved for public or private use or enjoyment, or for the use and enjoyment of owners and occupants of land adjoining or neighboring such open space.

**Outdoor Recreation:** Shall include but not be limited to golf courses, campgrounds, boat liveryes and launches, and other similar uses not included in the Open Air Business Use definition.

**Overlay Zone or Overlay District:** A zoning district that is applied to an underlying district that imposes additional requirements beyond those required for the underlying district (1-1-08).

**Palliative Care:** See Convalescent Homes.

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

**Parent Parcel:** A parcel recognized by Land Division Act of the State of Michigan (formerly Subdivision Control Act), Public Act 288 of 1967, as amended (MCL 560.101, *et seq.*) which is able to be split or subdivided.

**Park:** A tract of land designated and used by the public for active and passive recreation.

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

**Parking Space:** Space within a parking area or building, of definite length and width, exclusive of driveways, ramps, aisles, or entrances giving access thereto, for the parking or storage of one (1) permitted vehicle, also known as a parking stall.

**Pasture:** Grass covered land used for grazing livestock.

**Patio:** An uncovered courtyard or platform extending horizontally out from the main building or structure.

**Personal Service Establishment:** Any business which provides services involving the care of a person or his or her personal goods or apparel. Uses included in this definition include, but are not necessarily limited to, repair shops (watches, shoes, radio, television, etc.), tailor shops, barber and beauty shops, hair stylists, photography studios, laundries, or any combination.

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

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

**Planning Commission:** The Mason County Planning Commission. **(1-1-08)**

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

**Playground:** An active recreational area with a variety of facilities, including equipment for younger children as well as court and field games.

**Pond:** A natural or manmade body of water used to provide water for any of the following: livestock, fish and wildlife, recreation, fire control, crop and orchard spraying and irrigation, and other related uses for the personal use of the property owner and/or tenants.

**Pooling of Parcels:** The combining of two or more parcels (that may have one or more parcel owners) into a larger "pooling of parcels" for the purpose of making a single specific special use application. All internal property line setbacks of the "pooled parcel" must be maintained as described in each zone. All special use requirements as set forth in Article XVII will apply only to the external boundary of the "pooled parcel". If the special use application requires a lease of parcels, then ~~than~~ all parcels in the "pool parcel" shall be of the same length in terms of years.

**Porch:** A covered projection on a building or structure containing a floor, which may be either totally enclosed or open except for columns supporting the porch roof, and projects out from the main wall of said building or structure, and has a separate roof or an integral roof with the principal structure or structure to which it is attached. A porch shall not be considered as such when the enclosed space is heated or air-conditioned and when the percentage of window area to wall area is less than fifty (50) percent.

**Principal Structure:** Any building for any primary use or use subject to special land use review as defined in each zoning classification, not including accessory structures.

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

**Privacy Fence:** A solid fence, as defined herein, erected to prevent views from across the fence line.

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

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

**Professional Offices:** The office of a member of a recognized profession maintained for the conduct of business in any of the following related categories: architecture, engineering, planning, law, interior design, accounting, insurance, real estate, medicine, dentistry, optical, or any similar type of profession.

**Professional Service Establishment:** The office or other working space used by a member of a profession for the conduct of that profession. Included in this definition, but not necessarily limited to, are doctors' offices, dentists' offices, real estate businesses, insurance offices, and attorney offices. This definition shall not include Adult Personal Service Establishments, as defined herein.

**Property Line:** See Lot Line.

**Property Lines, Internal/External:** For the purposes of wind turbine generator placement only, internal and external property lines shall refer to property boundaries either bordering uninvolved adjacent properties (external) or property boundaries adjacent to involved or "pooled" parcels (internal).

**Public Facility:** Any facility other than a recreation area which is maintained by public funds, including, but not limited to, libraries, museums, administrative offices, and fire and police stations. This definition does not include schools, community hospitals, or any facility involving outdoor storage.

**Public Sanitary Sewer:** A system of pipe owned and maintained by a governmental unit, or an authority or commission comprised of one or more governmental units, used to carry human, organic, and industrial waste from the point of origin to a point of discharge.

**Public Uses:** Uses include, but are not necessarily limited to, governmental uses such as police and fire stations, public libraries, local government halls, and road commission garages. Parks and playgrounds open to the public are also included. Not included in the Public Uses definition are quasi-public uses such as churches and schools.

**Public Utility Facilities:** Buildings, structures, and facilities, including generating and switching stations, poles, lines, pipes, pumping stations, repeaters, antennas, transmitters and receivers, valves, and all buildings and structures relating to the furnishing of utility services, such as electric, gas, telephone, water, sewer, and public transit, to the public.

**Public Water Supply:** A water supply system owned by a governmental unit or an authority or commission comprised of one or more governmental units.



**Recycling (Light):** Establishments involved in the transformation, adaptation, extraction of useful materials, and/or sorting of post-consumer goods (such as paper, glass, tin, aluminum, or plastic) within a completely enclosed structure. (4-20-05)

**Recycling:** All other recycling uses not included in light recycling and including, but not limited to, those establishments involved in the mechanical, chemical, or physical, transformation of materials that require outdoor storage and/or outdoor processing techniques where the potential for nuisance issues exist due to the use of heavy equipment and related noise, vibration, dust, debris, or other emissions. (4-20-05)

**Recreation Facility, (indoor):** A recreation facility which is completely housed within a building and which is operated as a business and open to the public for a fee. Included in this definition are bowling alleys, movie theaters, and arcades.

**Recreational Vehicle:** Vehicular-type structures, primarily designed for conveyance upon the public streets or highways, and duly licensable as such, and will permit the occupancy thereof once stationed as a dwelling or sleeping place for one (1) or more persons. These vehicles can be towed, hauled, or affixed to another vehicle or driven from one site to another without requiring a State or County Special Transportation Permit for travel.

**Recreational Vehicle Campsite Condominium:** A condominium project that is designed and intended primarily for recreational dwelling purposes.

**Recreational Vehicle Campsite Condominium Unit:** That portion of a condominium project which is designed and intended for separate ownership and used as a recreational vehicle campsite as described in the condominium master deed. The owner of a campsite condominium unit also owns a share of the common elements. The term "campsite condominium unit" shall be equivalent to the term "lot" for purposes of determining compliance of a recreational vehicle campsite condominium with provisions of the Ordinance pertaining to minimum lot size, minimum lot width, and maximum lot coverage.

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

**Refinery:** Any building and associated equipment used in refining or processing materials such as oil or sugar.

**Repair and Light Assembly Shops:** Any establishment specializing in the repair or assembly of products. This may include bicycles, appliances, electronics, furniture, clothes, and similar items.

**Research facilities:** An establishment or other facility for carrying on investigation in the natural, physical, or social sciences, which may include engineering and product development.

**Restaurant:**

1. **Standard Restaurant:** A standard restaurant is any establishment whose principal business is the sale of foods, desserts, or beverages to the customer in a ready-to-consume state, and whose design or principal method of operation includes one (1) or both of the following characteristics:
  - a. Customers, normally provided with an individual menu, are served their foods, desserts, or beverages by a restaurant employee at the same table or counter at which said items are consumed.
  - b. A cafeteria type of operation where foods, desserts, or beverages generally are consumed within the restaurant building.

2. **Carry-Out Restaurant:** A carry-out restaurant is any establishment whose principal business is the sale of foods, desserts, or beverages to the customer in a ready-to-consume state and whose design or method of operation includes both of the following characteristics:
  - a. Foods, desserts, or beverages are usually served in paper, plastic, or other disposable containers.
  - b. The consumption of foods, desserts, or beverages within the restaurant building or within a motor vehicle parked upon the premises is prohibited. Food is intended primarily to be consumed off the premises.
3. **Fast-Food Restaurant:** A fast-food restaurant is any establishment whose principal business is the sale of foods, desserts, or beverages to the customer in a ready-to-consume state for consumption either within the restaurant building or for carry-out with consumption off the premises, and whose design or principal method of operation includes both of the following characteristics:
  - a. Foods, desserts, or beverages are usually served in paper, plastic, or other disposable containers.
  - b. The consumption of foods, desserts, or beverages within a motor vehicle parked upon the premises is posted as being prohibited and such prohibition is strictly enforced by the restaurateur.
4. **Drive-in/Drive-thru Restaurant:** A drive-in or drive-thru restaurant is any establishment whose principal business is the sale of foods, desserts, or beverages to the customer in a ready-to-consume state, and whose design and method of operation includes one (1) or both of the following characteristics: (10-24-05)
  - a. Foods, desserts, or beverages are served directly to the customer in a motor vehicle, either by a carhop or by other means which eliminate the need for the customer to exit the motor vehicle.
  - b. The consumption of foods, frozen desserts, or beverages within a motor vehicle parked upon the premises, or at other facilities on the premises outside the restaurant building, is permitted.

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

**Retail Sales:** Any establishment engaged in selling goods or merchandise to the general public residing in the immediate neighborhoods for personal or household consumption and rendering services incidental to the sale of such goods. Uses included in this definition are grocery stores, pharmacies, florists, and restaurants.

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

**Roads:** See Streets.

**Roadside Stand:** A temporary structure designed and used for the seasonal display and sale of agricultural products produced on the lands where the roadside stand is located, and the display and sale of other permitted agriculturally related items. (10-25-06)

**Room:** For the purpose of determining lot area requirements and density in a multiple-family district, a room is a living room, dining room, or bedroom equal to at least seventy (70) square feet in area. A room

shall not include the area in kitchen, sanitary facilities, utility provisions, corridors, stairways, hallways, and storage. Plans presented showing one (1), two (2), or three (3) bedroom units and including a "den," "library," or other extra room shall count such extra room as a bedroom for the purpose of computing density.

**Rotor:** An element of a wind energy system that acts as a multi-bladed airfoil assembly, thereby extracting through rotation, kinetic energy directly from the wind. (5-30-08)

**Salvage Material:** The miscellaneous waste materials resulting from housekeeping, structural repairs or remodeling, mercantile establishments, trades, manufacturing, and offices. Also included, but not limited to, are other waste matter such as slag, stone, broken concrete, flash, tin cans, glass, scrap metal, appliances, rubber, paper, rags, chemicals, auto parts, boat parts, and abandoned, inoperable, and/or partially dismantled vehicles including motorcycles, abandoned, inoperable, and/or partially dismantled farm machinery or equipment or any similar or related combination thereof.

**Sand and Gravel Extraction:** A surface or excavation used for the removal of sand, gravel, clay, and other soils for sale or use off-site, but shall not include grading and excavation related to site preparation for development which has been issued a building permit.

**Sanitary Landfill:** A tract of land developed, designed, and operated for the disposal of solid waste in a manner consistent with criteria established by Act 641 of the Michigan Public Acts of 1978, as amended, and any rules or regulations established based on this Act.

**Sawmill, Planing Mill, Wood Product Plant:** A facility where logs or partially processed wood is sawn, split, shaved, stripped, chipped, or otherwise processed to produce wood products.

**SCADA Tower:** A freestanding tower containing instrumentation such as anemometers that is designed to provide present moment wind data for use by the supervisory control and data acquisition (SCADA) system. (5-30-08)

**School:** Any building or part thereof which is designed, constructed, or used for education or instruction in any branch of knowledge.

1. **School, Elementary:** School licensed by the state and that meets the state requirements for elementary education.
2. **Schools, College and University:** An educational institution authorized by the state to award baccalaureate or higher degrees.
3. **Schools, Commercial Trade:** A secondary or higher education facility primarily teaching usable skills that prepare students for jobs in a trade and meeting the state requirements as a vocational facility.
4. **School, Parochial:** A school supported and controlled by a church or religious organization.
5. **School, Private:** Any building or group of buildings the use of which meets state requirements for elementary, secondary, or higher education and which use does not secure the major part of its funding from any governmental agency.

**Screening:** A method of visually shielding or obscuring one abutting or nearby structure or use from another by fencing, walls, berms, or densely planted vegetation.

**Self-Storage Facility:** See Mini-Warehouse.

**Service Drive:** A local street or private easement that is typically located in either to the front or rear of a property and parallel to an arterial street, which provides abutting properties access and/or frontage for the purpose of controlling access to the arterial. (1-1-08)

**Setback:** The minimum horizontal distance from the applicable lot line within which no building or structure may be constructed or maintained., ~~except as authorized by this Ordinance, which no structure, including private racetracks, shall be permitted.~~

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

**Shadow Flicker:** Alternating changes in light intensity caused by the moving blade of a wind energy system casting shadows on the ground and stationary objects, such as a window at a dwelling. (5-30-08)

**Shopping Center:** A group of three (3) or more commercial establishments developed in accordance with an overall plan and designed and built as an interrelated project.

**Sight Distance:** The distance of unobstructed view for the driver of a vehicle, as measured along the normal travel path of a roadway to a specified height above the roadway. (1-1-08)

**Sign:** A sign is any announcement, declaration, display, billboard, illustration, and insignia when designed and placed so as to attract general public attention and shall include the use of any words, numerals, figures, devices, designs, or trademarks by which anything is made known and visible to the general public such as are used to show an individual firm, profession, business, or business location, and also any banner, bulbs, or other lighting devices, streamer, pennant, balloon, propeller, flag (other than the official flag of any nation or state) and any similar device of any type or kind whether bearing lettering or not.

**Sign Area:** Sign area is the total sum of all exterior surfaces of the sign computed in square feet. In the case of a broken sign (a sign with open spaces between the letters or symbols), the sign area shall be measured by multiplying the height of the individual letters or symbols or combination of letters or symbols by the width of the individual letters or symbols or combination thereof. In broken signs of two or more lines, the sign area shall be the distance in feet between the furthestmost horizontal letters or symbols multiplied by the distance in feet between the furthestmost vertical letters or symbols.

**Sign Height:** The vertical distance to the top edge of the copy area or structure, whichever is higher, as measured from the adjacent street grade.

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

**Smelting Operation:** ~~An establishment which is engaged in extractive metallurgy, wherein a metal is produced from its ore; including blast furnaces.~~

**Solid Waste:** Garbage, rubbish, paper, cardboard, metal containers, yard clippings, wood, glass, bedding, crockery, demolished building materials, ashes, incinerator residue, street cleanings, municipal and industrial sludge, and solid commercial and solid industrial waste, animal waste, but not including

human body waste, liquid or other waste regulated by statute, ferrous or nonferrous scrap directed to a scrap metal processor or to a re-user of ferrous or nonferrous products, and slag or slag products directed to a slag processor or to a re-user of slag or slag products.

**Sound Pressure Level:** The sound pressure mapped to a logarithmic scale and reported in decibels (dB). (5-30-08)

**Special Land Use:** A land use or an activity which under certain circumstances, might be detrimental to other permitted uses and should not be permitted as a right in a given zoning district, but which use can be permitted under circumstances unique to the proposed location and subject to conditions acceptable to the County which provide protection to land uses. A Special Land Use is permitted in a zoning district only after review and approval of the Planning Commission, and as permitted and regulated by Act 110 of 2006.

**Special Land Use Permit:** A permit issued by the Planning Commission to allow a particular land use activity on a specific parcel of property or within a structure pursuant to standards and procedures established in this Ordinance.

**Specified Acts of Violence:** The graphic depiction, whether real or simulated, of human or animal decapitation, dismemberment, physical torture, stabbing, shooting, strangulation, drowning, electrocution, aggravated assault (whether accomplished by human contact, instruments, or weapons,) rape, disfigurement, mutilation, burning, or disembowelment.

**Specified Anatomical Areas:** The graphic depiction, whether real or simulated, of less than completely and opaquely covered human genitals, pubic region, buttock, and female breast below a point immediately above the top of areola; and human male genitals in a discernibly turgid state, even if completely and opaquely covered.

**Specified Sexual Activities:** The graphic depiction, whether real or simulated, of human genitals in a state of sexual stimulation or arousal; acts of human masturbation, sexual intercourse or sodomy; and fondling or other erotic touching of human genitals, pubic region, buttock, or female breast.

**Stoop:** An exterior floor typically, but not necessarily, constructed of concrete and/or masonry, with a finished floor elevation at least six (6) inches higher than the adjacent ground level, and utilized primarily as an access platform to a building.

**Stored or Open Storage:** Includes outside storage or keeping of building materials, sand, gravel, stone, equipment, and other supplies. Vehicles shall be termed stored or in open storage if for a period exceeding seven (7) days they have not been capable of operating under their own power and/or from which parts have been or are to be removed for reuse or sale.

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

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

**Story, Half:** An uppermost story lying under a sloping roof, the usable floor area of which does not exceed seventy five (75) percent of the floor area of the story immediately below. Tri-level style construction shall be considered one and one-half story.

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

**Street:** A public or private thoroughfare used, or intended to be used, for passage or travel by motor vehicles and the placement of public utilities. For purposes of this Ordinance, a street shall be defined to also include the term road. A Street is further classified by the function it performs. (1-1-08)

1. **County Primary:** Roads under the jurisdiction of the Mason County Road Commission, which include, but may not be limited to:
2. **Major thoroughfare:** US-31;and US-10.
3. **County, Local:** Roads under the jurisdiction of the Mason County Road Commission, which are classified as "local" on the official county road map.
4. **Street, Road:** Roads that gather traffic from local streets and/or move larger volumes of traffic through the County. (1-1-08)
5. **Street, Collector:** A Street primarily designed to provide access to abutting land parcels and also enable moderate quantities of traffic to move expeditiously between local streets and the major street network.
6. **Street, Local:** A Street primarily designed to provide access to immediately adjacent properties. Through movement may be possible but is not encouraged by operational controls; it may be impossible in the case of cul-de-sacs. Part of the street width is usually allocated to vehicle parking without restrictions, although special snow emergency parking prohibitions may be necessary. Each abutting property may have a driveway connection to the street.
7. **Street, Private:** A privately maintained area used for ingress and egress to serve more than two (2) parcels of land or residential building sites within a condominium development or cluster developments/open space communities and constructed on a privately owned easement.
8. **Street, Public:** A thoroughfare which affords a principal means of access to abutting property and which has been accepted, either expressly or impliedly, by the Mason County Road Commission or other public road agency as a public street, or is used as such by the public.
9. **Street, Hard-surfaced:** A Street that has been surfaced with concrete or bituminous.

**Structure:** Is anything constructed or erected, the use of which requires location on the ground or attachment to something having location on the ground.

**Structural Alteration:** Any change in the supporting members of a building or structure, such as bearing walls or partitions: columns, beams, or girders; stairways; or any change in the width or number of exits; or any substantial change in the roof.

**Structural Connection:** A connection between structures by means of structural members, such as bearing walls, columns, beams, girders, or roof. For the purposes of this Ordinance, to be considered structurally connected, two or more structures must be physically joined together and must have a connecting roofline, a foundation or slab, and at least one solid wall connecting the structures. For the purposes of this Ordinance, to be considered structurally connected, one of the structures must contain heated living space.

**Subdivision:** The partitioning or splitting of a parcel or tract of land by the proprietor or by his or her heirs, executors, administrators, legal representatives, successors, or assigns for the purpose of sale, or lease for more than one (1) year, or of building development that results in one (1) or more parcels of less than forty (40) acres or the equivalent, and that is not exempted from the platting requirements of the state Land Division Act (Act 591 of 1996).

**Swimming Pools:** The term "swimming pool" shall mean any structure or container intended for swimming, located either above or below grade and designed to hold water to a depth greater than thirty six (36) inches.

**Temporary Housing:** A structure without any foundation or footings that is established for a limited duration and removed when the designated time period has lapsed.

**Temporary Use:** A use established for a limited duration with the intent to discontinue such use when the designated time period has lapsed.

**Throat Length:** The distance parallel to the centerline of a driveway to the first on-site location at which a driver can make a right-turn or a left-turn. On roadways with curb and gutter, the throat length shall be measured from the face of the curb. On roadways without a curb and gutter, the throat length shall be measured from the edge of the driving lane. (1-1-08)

**Throat Width:** The distance edge-to-edge of a driveway measured at the tangent point of the curb radius (1-1-08).

**Tower Height:** Tower height shall be determined by the measuring the distance between the base of the tower (at grade) to the highest point of the tower. Turbine blades are not considered in determining tower height. If the tower is installed on an existing structure, tower height shall be measured from the grade of the existing structure, not from the base of the tower. (5-30-08)

**Tract of Land:** Two (2) or more parcels that share a common property line and are under the same ownership. (10-24-05)

**Trailer Coach:** A trailer coach is defined as a wheeled, semi-vehicular conveyance, including a travel trailer, designed to be towed by an automobile or other motor vehicle and when parked on a parcel of land, to be used for temporary dwelling purposes. A trailer coach is not a mobile home, manufactured home or recreational vehicle.

**Transient Outdoor Enterprise:** Any recreational activity which is designed to travel from one area to another with only temporary structures for shelter. This definition shall include, but not necessarily be limited to, circuses, carnivals, and concerts.

**Travel Trailers:** See Recreational Vehicle.

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

**Trip Generation:** The estimated total number of vehicle trip ends produced by a specific land use or activity. A trip end is the total number of trips entering or leaving a specific land use or site over a designated period of time. Trip generation is estimated through the use of trip rates that are based upon the type and intensity of development. (1-1-08)

**Truck Terminal or Distribution Center:** A premises used for loading or unloading of trucks upon which storage of cargo is incidental to the primary function of motor freight shipment and which is designed to accommodate the simultaneous loading or unloading of multiple trucks.

**Truck Trailer Drop Yard:** A trucking facility involving the use of semi-trailers, straight trucks, and trailers for the purposes of transferring a trailer or semi-trailer from one vehicle to another, such as from a long haul route to a local route. This does not include warehousing, truck yard or truck repair facilities.

**Underlying District:** The zoning district that a property is located in, which establishes permitted uses, densities, and dimensional regulations, and that serves as the base zoning district to which an overlay district may be applied. (1-1-08)

**Usable Floor Area:** See Floor Area, Usable.

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

**Utility Grid Wind Energy Systems:** A Utility Grid wind energy system is designed and built to provide electricity to the electric utility grid. (5-30-08)

**Variance:** Permission by the Zoning Board of Appeals to depart from the literal requirements of this Ordinance.

**Vehicle Sales Totally Within Building:** An establishment engaged in the sale of motor vehicles, but different than an open air businesses because the sales activity and storage of vehicles is conducted completely indoors.

**Veterinary Clinic:** A state licensed facility where animals are given medical care and the boarding of animals is limited to short-term care incidental to the hospital use.

**Wall:** An artificially constructed upright barrier of any material or combination of materials erected to enclose, divide, screen, or protect areas of land.

**Wall, Obscuring:** A wall that creates a visual barrier.

**Water Front Storage:** Storage facility fronting on water which does not provide berthing/docking on an individual basis.

**Wetland:** An area that is inundated or saturated by surface water or groundwater at a frequency or duration sufficient to support, and that under normal conditions does support, a prevalence of vegetation typically adapted for life in saturated soil conditions.

**Warehouse:** A use engaged in storage, wholesale, and distribution of manufactured products, supplies, and equipment, excluding bulk storage of materials that are inflammable or explosive or that present hazards or conditions commonly recognized as offensive.

**Wind Energy System:** A wind energy conversion system which converts wind energy into electricity through the use of a wind turbine generator and includes the turbine, blades, and tower as well as related electrical equipment. This does not include wiring to connect the wind energy system to the grid. (5-30-08)

**Wind Site Assessment:** An assessment to determine the wind speeds at a specific site and the feasibility of using that site for construction of a wind energy system. (5-30-08)

**Wind Turbine Generator:** A device fitted with a set of revolving blades designed to harness the power of the wind, for example, to pump water or generate electricity.

**Winery:** An establishment for the processing, bottling, and selling of wine or other fermented fruit beverage.

**Wireless Communication Antenna (WCA):** Any antenna used for the transmission or reception of wireless communication signals excluding those used for public emergency systems, television, ham radio, satellite antennas, and video programming services.

**Wireless Communication Support Facility (WCSF):** A monopole, guyed, or lattice type tower designed for the attachment of, or as support for, wireless communication antennas or other antennas.

**Yard:** An open space of prescribed width or depth on the same land with a building or group of buildings, which open space lies between the building or group of buildings and the nearest lot line, and is unoccupied from the ground upward, except as otherwise provided herein.



1. **Yard, Front:** An open space extending the full width of the lot, the depth of which is from ~~minimum horizontal distance between the front lot line and to~~ the nearest point of the ~~main~~ principal building.
2. **Yard, Rear:** An open space extending across the full width of the lot, the depth of which is from the ~~minimum horizontal distance between the rear lot line and the nearest point of the~~ ~~main~~ principal building.
3. **Yard, Side:** Open space between a building and the side lot line.

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

**Zoning Board of Appeals (ZBA):** The Mason County Zoning Board of Appeals.

**Zero lot line:** the placement of a building immediately adjacent to side property line(s) under the conditions set forth by this ordinance. (1-1-08)

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

### ARTICLE III GENERAL PROVISIONS

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The following regulations shall apply to all Zoning Districts established within this Ordinance.

#### **Section 3.01 Accessory Buildings, Structures, and Uses.**

Accessory buildings, except as otherwise permitted in this Ordinance, shall be subject to the following regulations:

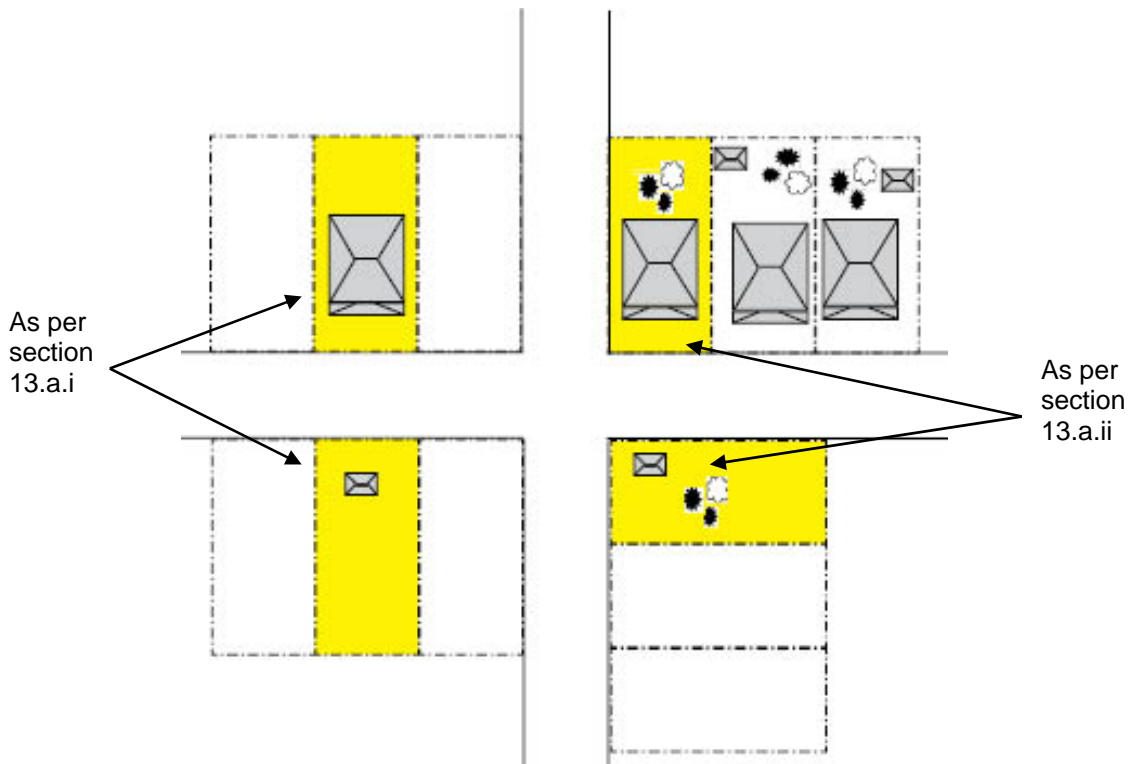
1. Buildings and structures used in active farm operations are not considered accessory buildings and shall not be subject to this section 3.01, except that no buildings or structures shall be located within a required yard.
2. Where the accessory building is structurally attached to a main building, it shall be subject to, and must conform to, all regulations of this Ordinance applicable to the main building.
3. Accessory buildings or structures shall not be erected in any front yard nor in any required side yard or required rear yard except when the principal building is located at least 250 feet from the front lot line, in which case, accessory buildings and structures shall be at least 200 feet from the front lot line.
4. Accessory buildings on a waterfront lot used for personal storage of items such as travel trailers, boats, and automobiles are permitted in the front yard only in instances where there is not adequate space in either side yard that is not within the required side yard. (10-24-05)
5. No detached accessory building shall be located closer than ten (10) feet to any main building. In no instance shall an accessory building be located within a dedicated easement right-of-way.
6. An accessory building may occupy not more than fifty (50) percent of a rear yard area; provided, however, that the total floor area (being the entire area enclosed within the exterior walls) of all detached accessory buildings on a parcel of land, shall be limited as follows (10-25-06):

<b>If the area of the parcel of land is:</b>	<b>Then the maximum total floor area of all detached accessory buildings shall be:</b>
Less than .99 acre	960 sf
At least 1 acre but less than 2 acres	1200 sf
At least 2 acres but less than 3 acres	1600 sf
At least 3 acres but less than 5 acres	2000 sf
At least 5 acres but less than 8 acres	2400 sf
At least 8 acres but less than 10 acres	3000 sf
10 acres or more*	<u>4000 sf plus 200 square feet for each acre increment above 10 acres up to a maximum of 8000 square feet. By way of example, a property containing 12 acres of land may have 4400 square feet of detached accessory buildings.</u>

\*When the total of all detached accessory buildings exceeds 4000 square feet in area, the applicant shall provide to the Mason County Zoning Administrator a restrictive covenant, such as a deed restriction, as recorded with the Mason County Register of Deeds indicating that any future division of the subject lot or parcel shall meet the above limits for lot area and accessory building ground floor area provided in this Section 3.01. Such instrument shall be provided to the Mason County Zoning Administrator prior to the issuance of a Building Permit.

7. ~~No detached accessory building in the A, R-E, R-R, R, or MHP districts shall exceed one (1) story or fifteen (15) feet in height.~~ Maximum building height for accessory buildings shall be as follows:
- a. A, R-E and R-R districts: 30 feet.
  - b. R or MHP districts: 15 feet
  - c. Height of accessory buildings located in districts other than A, R-E, R-R, R, or MHP shall be subject to the building height standards of the subject zoning district. For buildings and structures used in active farm operations, see section 3.01, 1.
8. When an accessory building is located on a corner lot, it shall not extend into either required front yard.
9. By definition an accessory building is clearly incidental to the principal structure housing the main use; therefore the Zoning Administrator shall not issue a Zoning Permit for an accessory building prior to the issuance of a Zoning Permit for the main or principal structure.
10. In all residential districts, the seasonal storage of boats shall be considered an accessory use subject to the provisions of Section 3.01.
11. An accessory building that has a total floor area (being the entire area within the exterior walls) of less than two hundred (200) ~~400~~ square feet shall not be subject to the issuance of a zoning permit, but the total floor area of such an accessory building shall nevertheless be included in determining the maximum total floor area of all accessory buildings on a parcel of land. Any such accessory building shall be located a minimum of five (5) feet from the property line. There shall be no more than three (3) accessory buildings of less than two hundred (200) square feet on any one lot or parcel. ~~comply with all other requirements for accessory buildings, including required building setbacks, and shall be subject to the issuance of a zoning permit. No accessory buildings are permitted on a parcel without a main or principal structure. (10-25-06)~~
12. The area of an accessory building shall include the area within a lean-to or other sheltered attachment to an accessory building, in those cases where the lean-to has a roof which is supported by posts, columns, partial walls or other means. The area of the lean-to for the purpose of calculating the area thereof shall be that area covered or sheltered by the roof of the lean-to. (10-25-06)
13. No accessory building is permitted on a parcel without a main or principal structure, except for the following:
- a. one detached accessory building may be located on a lot that has no principal building, in the following circumstances only:
    - i. If the lot is directly across a public or private street from a lot improved with a dwelling to which the building is accessory and such lot is not a waterfront lot; or
    - ii. If the lot on which the detached accessory building is located is adjacent to either side lot line of a lot directly across a public or private street from a lot improved with a dwelling to which the building is accessory.
  - b. In the circumstances described in this subsection as to accessory buildings on lots that have no principal building, not more than one detached accessory building may be located on an unimproved lot across a public or private street, as described above. The lot upon which the accessory building is constructed and the improved lot to which it is accessory shall be held in common ownership. A restrictive covenant confirming such common ownership and prohibiting the separate conveyance of either lot shall be recorded with the Mason County Register of Deeds prior to the issuance of a building permit or installation of any accessory building.

c. In the circumstances described in this subsection as to accessory buildings on lots that have no principal building, such accessory buildings shall have a maximum area of nine hundred sixty (960) square feet in area.



### **Section 3.02 Building Grades.**

In establishing the grade on a lot or parcel for the purpose of any construction thereon, the following conditions shall control:

1. Where there is existing development in the area or where the adjacent lands are subdivided, the grades about the new development or construction shall follow the grade of the existing structures, as defined in this Ordinance.
2. The grades for all new development shall be completed so as to contain all runoff on the site or direct runoff to storm facilities without crossing abutting lands.
3. Where the grade on site is in any way to be increased above existing grades of the adjacent properties, the owner of the property shall, upon application for a Zoning Permit, submit a certification signed and sealed by a Registered Land Surveyor or a Civil Engineer stating the existing and proposed grades and that conditions set forth in items 1 through 3 of this Section are met.

### **Section 3.02a Breezeways.**

A breezeway shall be at least eight (8) feet in width and shall not exceed twenty four (24) feet in length. Breezeways shall be structurally connected to the principal building or structure on the lot.

### **Section 3.03 Buildings To Be Moved.**

The term “moving of buildings” includes any site-built buildings or structures being relocated within the County, being moved out of the County, or being moved into the County. A Zoning Permit is needed when the building is being moved within or to the property lines of a lot intended for reuse.

Movement of buildings into, within, and/or out of the County shall be approved by the County Zoning Administrator prior to such moving. Approval shall be contingent upon the Administrator determining that the following conditions have been met.

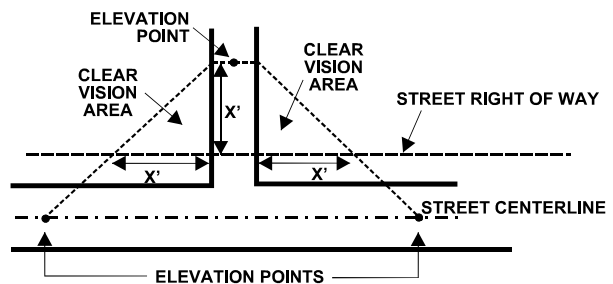
1. Any person desiring to move a building within or into Mason County shall file an application for a Zoning Permit with the Zoning Administrator. Such moving of building application shall contain among other things, the following information:
  - a. Name, description, and address of applicant.
  - b. A completed Zoning Permit Application including site plan and building plans.
  - c. Length of time for the anticipated move.
  - d. Evidence that adequate insurance is provided to protect any improvements in the public right-of-way.
  - e. Evidence that adequate police protection has been arranged for with the appropriate agency.
  - f. Emergency telephone number for applicant and/or property owner.
  - g. A detailed description of the route and time of the move.
2. Where a structure is moved into the County, the structure must comply completely with all codes and ordinances prior to obtaining a certificate of occupancy.
3. The County Treasurer must be in receipt of any necessary fee, licenses, and bonds.
4. A cash bond may be required by the County Board of Commissioners to insure that the ultimate moving, erection, or construction of the building and the development of the site shall be in accordance with the approved plans and proposals. Such bond shall be in an amount equal to the estimated cost of the construction and the site improvements. The bond will not be returned until an occupancy permit has been granted.

### Section 3.04 Corner Clearance and Visibility. (1-1-08)

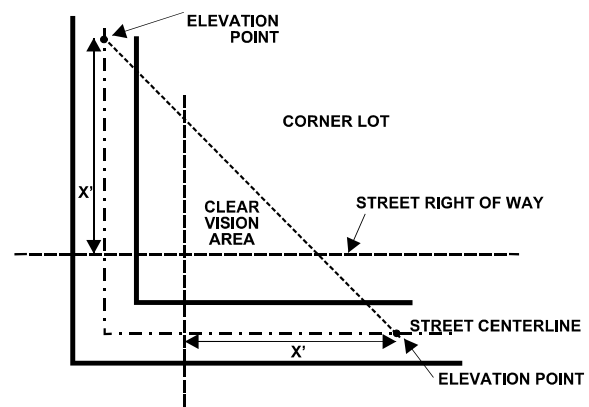
No fence, wall, structure, or planting shall be erected, established, or maintained on any corner lot which will obstruct the view of a driver of a vehicle approaching the intersection, except that shade trees would be permitted where all branches are not less than eight (8') feet above the road level. Shrubs located in the triangular area shall not be permitted to grow to a height of more than two (2) feet above the pavement grade at the edge of the pavement. Landscaping shall conform to the requirements of Section 3.13.

1. When a driveway intersects a public right-of-way or when the subject property abuts the intersection of public rights-of-way, all landscaping within the corner triangular areas described below shall permit unobstructed cross-visibility.

**Illustration 3-1. Corner Clearance and Visibility**  
**CLEAR VISION AT DRIVEWAYS**



**CLEAR VISION ON CORNER**



2. In the case of a street intersection, such unobstructed corner shall mean a triangular area formed by the right-of-way lines and a line connecting them at points twenty-five (25) feet from the intersection of the right-of-way lines, or in the case of a rounded property corner from the intersection of the right-of-way lines extended. In the case of a driveway/street intersection, the aforementioned technique shall also be used, however a twenty (20) foot dimension situated along the driveway and property line shall be utilized.

### **Section 3.05 Cross-District Averaging.**

When two (2) or more zoning districts are involved within the boundaries of one parcel of land which is under consideration for development of single-family residential use pursuant to Act 288 of 1967, as amended, known as the Land Division Act of 1967, the Planning Commission, upon application from the property owner, may grant a change from the minimum requirements of the several zoning districts so involved, so as to provide cross-district lot size and density averaging within the boundaries for such parcel of land.

In the case where cross-district averaging is permitted, the following conditions shall be met:

1. The relocation of lot lines shall generally conform to the existing topography, vegetation, and other natural or manmade features.
2. No single lot in any individual zoning district shall have an area or width which is less than the minimum required for the higher density zoning district part of the cross district development project.
3. All computations showing the total number of lots permitted and average lot size allowed resulting from this technique shall be indicated on the print of the preliminary plat.
4. The submittal shall be reviewed and approved in accordance with the terms, conditions, and standards of the Land Division Act, PA 288 of 1967, as amended.

### **Section 3.06 Essential Services.**

Essential services and public utility facilities as defined by this Ordinance shall be permitted as authorized in any district under any franchise or that may be regulated by any law of the State of Michigan or any ordinance of the County. It is the intention hereof to exempt such essential services, excluding buildings or other structures, from the application of this Ordinance.

### **Section 3.07 Roadside Stands. (10-25-06)**

Roadside stands shall be permitted in the AG, RE and R-R Districts in accordance with the terms of this section.

1. A roadside stand shall sell only produce grown on the premises, and incidental merchandise generally associated or related to farm produce and products. Such incidental goods and items may include, though are not limited to, jams and jellies, eggs, breads and other baked goods, small arts and crafts items and other incidental farm goods and products.
2. A roadside stand shall be operated on a seasonal basis only. It shall be operated and used only by the owner, manager or tenant of the land on which the roadside stand is located.
3. The roadside stand shall be located at least 15 feet away from the street right-of-way, and such additional distance as may be required to assure a safe distance between the roadside stand and motor vehicles using the adjacent street.
4. A roadside stand shall include adequate off-street vehicle parking area, arranged and located so that no traffic hazard or other potentially harmful condition will arise.

5. The structure comprising the roadside stand shall have no more than 200 square feet of sales and display area.
6. The driveway or other means of access to the roadside stand shall be located at least 60 feet away from any street intersection, as measured from the right-of-way lines of intersecting streets.
7. There shall be no more than two temporary signs, neither of which shall exceed 9 square feet in area.

### **Section 3.08 Fences.**

1. Residential Fences. Residential fences are permitted, subject to the following:
  - a. Fences on all lots of record in all residential districts, which enclose property and/or are within a side or rear yard, shall not exceed six (6) feet in height. This distance shall be measured from the grade to the highest point of the fence. No fence, wall, or hedge shall rise over three (3) feet in height in the front setback; the measuring technique employed shall be the same as stated above. In addition, no fence, wall, or hedge shall be located within a public right-of-way, occupy a clear vision zone established by Section 3.04, or interfere with visibility from a driveway. Fences shall not contain barbed wire, electric current, or charge of electricity.
  - b. All fences shall comply with the requirements of the Building Code.
  - c. Nothing contained herein shall be construed to take precedence over private deed restrictions where more restrictive than the above described regulations.
  - d. Fences located within twenty-five (25) feet of an intersection shall not exceed thirty (30) inches in height.
2. Nonresidential Fences.
  - a. Fences located in other than residential districts or on the boundary between such districts shall not exceed eight (8) feet in height, measured from the surface of the ground.
  - b. Fences, which enclose public or institutional parks, playgrounds, or public landscaped areas, situated within an area developed with recorded lots, shall not obstruct vision to an extent greater than twenty-five (25) percent of their total area.
  - c. No fence, wall, or hedge shall be located within a public right-of-way, occupy a clear vision zone established by Section 3.04, or interfere with visibility from a driveway.
  - d. Fences located within twenty-five (25) feet of an intersection shall not exceed thirty (30) inches in height.
  - e. Fences not used for farm operations shall not contain barbed wire, electric current. In the case where the security of industrial and commercial property is concerned, the Planning Commission may approve a fence eight (8) feet in height with barbed wire attached to the top of such fence as part of the site plan review process.
  - f. All fences shall comply with the requirements of the Building Code.

### **Section 3.09 Highway Intersections.**

1. Highway Intersections, noncommercial properties.

- a. At the intersection of any Mason County Primary Road or any Michigan State Highway Trunk line that is not located in the Access Management overlay (Article XXI), said connection points shall be located one-hundred seventy-five (175) feet from the intersections of the highway center lines. At the intersection of any other roadway driveway entry points shall be located one-hundred twenty-five (125) feet distant from the intersection of the highway center lines. (1-1-08)
2. Buildings and Structures Relative to Setback Areas.
  - a. No building or structure of any kind, except necessary highway and traffic signs and open fences through which there shall be clear vision, shall hereafter be constructed, erected, or moved into the space within such setback lines. Except necessary highway and traffic signs, presently existing within such setback lines, may be renewed or replaced.
3. Change in Highway Designation.
  - a. When any highway or portion thereof is officially adopted into the Mason County Primary Road system or the Michigan State Trunk line system, such road or portion thereof shall automatically be subject to the appropriate provisions of this ordinance.

### **Section 3.10 Home Occupations. (10-25-06)**

A home occupation shall comply with all of the following requirements:

1. A home occupation may be permitted in the AG, RE, RR, R-4, MHP, F, and GB Districts in accordance with this section.
2. A home occupation shall be carried on by one or more members of a family residing in the home on the premises and no more than one other person who is a non-resident of the dwelling.
3. There shall be no change in the outside appearance of the dwelling, as a result of the conducting of the home occupation, nor shall there be other externally-visible evidence of the home occupation except for any permitted sign.
4. There shall be no outdoor storage, nor shall any accessory building be used in the operation of a home occupation.
5. Any motor vehicle traffic generated by the home occupation shall be only to such limited extent that the number of vehicles, the frequency of vehicle trips, the noise of vehicles and other resulting impacts shall have no serious adverse effects on adjacent or nearby lands or streets.
6. If parking of motor vehicles will result from the home occupation, an adequate off-street parking area shall be provided on the parcel of land where the home occupation is conducted; such off-street parking area shall not be located in a required front yard setback area, except that vehicles generated by the home occupation may be parked in a driveway that is used to provide vehicle access to the dwelling.
7. No combustible, toxic or hazardous materials may be used or stored on the premises, except in a safe manner and in full compliance with all federal, state and local requirements as to the use, handling, storage, transport and disposal of any such materials.
8. There shall be no deliveries from commercial suppliers, except on an occasional basis.
9. The home occupation shall not result in serious adverse effects on adjacent or nearby lands or public or private streets by reason of traffic congestion, outdoor lighting, noise, fumes, odors, vibration or other serious adverse effects.



10. Home occupations may include, but are not limited to, the following:

- (a) Home arts and crafts, including but not limited to rug weaving, quilting, pottery and ceramics, model making, lapidary work and jewelry making; sales of such arts and crafts shall take place on only an incidental, occasional basis.
- (b) Musical instrument instruction, but no instrument shall be amplified so as to be audible beyond the parcel of land where the home occupation is occurring.
- (c) Private business office for the reasonable convenience of persons residing in the home, for the conducting of business office work involving files, records, papers, use of computers and other business equipment, but not including the sale or rental of goods or products to customers or the rendering of services to customers on the premises, except on an incidental or occasional basis.
- (d) Dress making, sewing and tailoring.
- (e) Painting, sculpturing and writing.
- (f) Telephone answering service.
- (g) Private tutoring.
- (h) Telephone solicitation work.

11. No home occupation shall be permitted without the prior issuance of a home occupation permit, in accordance with this subsection.

- (a) A person shall apply for a home occupation permit on a form provided by the County Zoning Department and shall pay the required application fee or other charge, if any. The application shall be submitted to the Zoning Administrator ~~Director~~.
- (b) The application shall include a site plan drawn to scale and other information showing the location of the home, buildings, driveways, parking areas, proposed signage, hours of operation and other features of the home occupation.
- (c) A home occupation permit shall be issued by the Zoning Administrator for a proposed home occupation if the home occupation complies with the requirements of this section, based upon the application and the materials and other information provided. Once the application is complete, the Zoning Administrator shall issue, or shall decline to issue, the permit within a reasonable time. If the Zoning Administrator declines to issue the permit, the reasons therefore shall be stated in writing.
- (d) In determining whether a proposed home occupation not listed in this section nevertheless qualifies as a home occupation under this section, the Zoning Administrator shall consider the following:
  - (1) The extent to which the proposed home occupation is reasonably similar to those listed in this section.
  - (2) Whether the major features and characteristics of the proposed home occupation would comply with the requirements stated in this section.
  - (3) Whether the home occupation is reasonably included within the definition of home occupation, as stated in this Ordinance.

- (e) In issuing a home occupation permit, the Zoning Administrator may include reasonable terms and conditions consistent with the requirements of this section.
- (f) A home occupation permit shall remain in effect, so long as the terms of the permit and of this section are complied with and so long as the permit is not revoked. The permit may be revoked by the County for non-compliance, by the issuance of a stop work order or an order revoking the permit, issued by the Zoning Administrator or other County representative having responsibility for enforcement of County ordinances.
- (g) Upon the cessation of a home occupation for a period of 90 days, the home occupation permit shall be of no further effect.

### **Section 3.11 Setback Measurement.**

The dimension of the minimum required setback shall be measured between the property line and the nearest portion of a building or structure, including any stoops, steps, overhangs, eaves, trim, or appurtenances; but not including ramps intended and used for wheelchair access, fences, or at-grade structures such as concrete sidewalks or stepping stones.

### **Section 3.12 Funneling (Key Hole Development).**

1. It is hereby found that funneling, as defined in this ordinance, is inimical to the Public Health, Safety, and Welfare, and constitutes an improper use of land and natural resources because it causes overcrowding of lakes, streams, and lands adjacent to them, contributes to the pollution and degradation of public waters, creates hazards to life and property by increasing the risks of riparian owners and the public, and adversely affects property values of shoreline properties located near funnel developments.
2. It is the declared purpose of this section to protect the health, safety, and general welfare of the citizens of Mason County by prohibiting funneling, as hereinafter defined, on bodies of water and waterways in the unincorporated areas of the County. It is the intent of this section to:
  - a. Carry out the purposes of the Michigan Zoning Enabling Act (Act 110 of 2006, as amended) ~~County Rural Zoning Enabling Act (Act 110 of 2006)~~, Environmental Protection Act (Act 127 of Public Acts of 1970, as amended), and to regulate the proper use of natural resources within the County.
  - b. Prevent the overuse and misuse of water resources within the County, particularly by boating traffic and similar impacts on inland waters.
  - c. Protect the quality of inland waters by limiting uses of the water that tend to pollute them.
3. Nothing in this section shall be construed as depriving any riparian owner of any natural body of water or waterway of any riparian rights.
4. Funneling is prohibited in all areas of this Ordinance's jurisdiction. If any proposed use involves funneling or proposed funneling, said use shall not be permitted.

### **Section 3.13 Landscaping.**

1. Intent.
  - a. Landscaping, greenbelts, and screening are necessary for the protection and enhancement of the environment and for the continued vitality of all land uses in the County. Landscaping and greenbelts are capable of enhancing the visual environment, preserving natural features, improving property values, and alleviating the impact of noise, traffic, and visual disruption related to intensive uses. The purpose of this section is to set minimum standards for the protection and

enhancement of the environment through requirements for the design and use of landscaping, greenbelts, and screening for commercial, industrial, and special uses as permitted in this ordinance.

## 2. Scope of Application.

- a. The requirements set forth in this section shall apply to all uses, lots, sites, and parcels which are developed or expanded following the effective date of this Ordinance. No site plan shall be approved unless said site plan shows landscaping consistent with the provisions of this section. Furthermore, where landscaping is required, a building permit shall not be issued until the required landscape plan is submitted and approved, and a certificate of occupancy shall not be issued unless provisions set forth in this section have been met or a performance bond has been posted.
- b. In cases where the use of an existing building changes and requires administrative or commission site plan review, all of the standards set forth herein shall be met.
- c. The requirements of this section are minimum requirements, and nothing herein shall preclude a developer and the County from agreeing to more plantings than the minimum required.

## 3. Landscaping Design Standards.

Except as otherwise specified in the general requirements for each Zoning District, all landscaping shall conform to the following standards:

### a. General Landscaping.

All portions of the lot or parcel area not covered by buildings, paving, or other impervious surfaces, shall be landscaped with vegetative ground cover and other ornamental materials as required below, except where specific landscape elements, such as a greenbelt, berm, or screening are required:

- 1.) All portions of the landscaped area shall be planted with grass, ground cover, shrubbery, or other suitable plant material, except that paved patios, terraces, sidewalks, and similar site features may be incorporated with Planning Commission approval.
- 2.) A mixture of evergreen and deciduous trees shall be planted at the rate of one (1) tree for each one-thousand (1,000) square feet or portion thereof of landscaped open-space area.
- 3.) On sites which are two (2) acres or larger in size, the landscaped area shall include a greenbelt of a minimum ten (10) foot width, located and continually maintained along a public right-of-way.
- 4.) The Planning Commission may reduce or waive the requirements outlined herein provided that any such adjustment is in keeping with the intent of the Ordinance.
- 5.) The total landscaped area shall be the basis for determining the required number of trees or shrubs, irrespective of the portion which is devoted to patios, terraces, sidewalks, or other site features.

### b. Parking lot landscaping.

Off-street parking areas shall be landscaped as follows:

- 1.) In off-street parking areas containing twenty (20) or more parking spaces, an area equal to at least five (5) percent of the total parking area shall be used for interior landscaping. Whenever possible, parking lot landscaping shall be arranged to improve the safety of

pedestrian and vehicular traffic, guide traffic movement, and improve the appearance of the parking area, through the even distribution of the landscape effort across the total off-street parking area, rather than to concentrate all effort in one location.

- 2.) Parking lot landscaping shall be in units not less than five (5) feet in any single dimension and not less than one-hundred fifty (150) square feet in any single island area. Not more than two (2) landscaped units of one-hundred fifty (150) square feet may be combined in plans designed to meet the minimum requirements.
- 3.) The landscape plan shall designate the sizes, quantities, and types of plant material to be used in parking lot landscaping.
- 4.) Required landscaping elsewhere on the parcel shall not be counted in meeting the parking lot landscaping requirements.
- 5.) A minimum of one (1) deciduous tree shall be planted in each landscaped unit.

c. Greenbelt Buffer.

Where required, greenbelts and greenbelt buffers shall conform to the following standards:

- 1.) A required greenbelt or greenbelt buffer may be interrupted only to provide for roads or driveways for vehicular or pedestrian access.
- 2.) Grass, ground cover, or other suitable live plant material shall be planted over the entire greenbelt area, except that paving may be used in areas of intensive pedestrian circulation.
- 3.) A minimum of one (1) deciduous tree or evergreen tree shall be planted for each thirty (30) lineal feet or portion thereof of required greenbelt length.
- 4.) Two (2) shrubs shall be required for each fifteen (15) linear feet of greenbelt area.
- 5.) For the purpose of determining required plant material, required greenbelt area length shall be measured along the lot lines adjacent to the greenbelt area inclusive of all driveways.

d. Berms.

Where required, earth berms or landscaped berms shall conform to the following standards:

- 1.) The berm shall be at least three (3) feet above the grade elevation, and shall be constructed with slopes no steeper than one (1) foot vertical for each three (3) feet horizontal, and shall provide a two (2) foot minimum crest. For the purposes of this provision, grade elevation shall be the ground elevation at the property line adjacent to the proposed berm.
- 2.) The berm area shall be planted with grass or other suitable ground cover to ensure that it withstands wind and weather and retains its height and shape.
- 3.) A minimum of one (1) deciduous or evergreen tree shall be planted for each thirty (30) linear feet or portion of required berm.
- 4.) Eight (8) shrubs per tree may be planted as a substitute for trees (see item 3 above).
- 5.) For the purpose of determining required plant material, required berm length shall be measured along the length of the berm.

- 6.) The Planning Commission may reduce or waive the requirements outlined herein provided that any such adjustment is in keeping with the intent of the Ordinance.
- e. Evergreen Screening.
  - 1.) Where required, evergreen screening shall consist of closely-spaced plantings which form a visual barrier that is at least eight (8) feet above ground level within five (5) years of planting.
  - 2.) The Planning Commission may reduce or waive the requirements outlined herein provided that any such adjustment is in keeping with the intent of the Ordinance.
- f. Landscaping of Rights-of-Way and Other Adjacent Public Open-Space Areas.
  - 1.) Public rights-of-way and other public open-space areas adjacent to required landscaped areas and greenbelts shall be planted with grass or other suitable ground cover and maintained by the owner of the adjacent property as if they were part of required landscaped areas and greenbelts.
- g. Regulations Pertaining to Landscaping Areas Used for Sight Distance. Landscaping shall conform to the requirements of Section 3.04.
- h. Maintenance of Landscaping.
  - 1.) All required landscape areas shall be planted and maintained with living plant materials. All landscaping which is located more than fifty (50) feet from a building site shall have an irrigation (water sprinkler) system installed to assist in maintaining plant materials in a healthy condition.
  - 2.) Upon completion of the installation of the landscaping, the owner shall implement a seasonal maintenance program to replace all diseased, dead, or damaged plants, replenish mulch, control weeds, fertilize, and prune all plant materials. Failure to maintain required landscaped areas, including the removal and replacement of dead or diseased plant materials, shall constitute a violation of this Ordinance.
- i. Existing Plant Material.
  - 1.) In instances where healthy plant material exists on a site prior to its development, the Planning Commission may adjust the application of the above standards to allow credit for such plant material if such an adjustment is in keeping with, and will preserve the intent of this Ordinance. All such material "to be saved" shall be so indicated on the landscape plan.
  - 2.) All existing plant materials must first be verified by the Zoning Administrator, prior to issuance of a Building Permit, to determine the health and desirability of such materials. The property owner or applicant may enlist the services of a registered landscape architect or registered forester to verify existing plant materials and may submit a site plan and/or report. The Planning Commission may require the above information when deemed necessary.
  - 3.) If such existing plant material is labeled "to be saved" on site plans, protective techniques, such as (but not limited to) fencing placed at the drip-line around the perimeter of the plant material, shall be installed. No vehicle or other construction equipment shall be parked or stored within the drip-line of any plant material intended to be saved.
  - 4.) In the event that healthy trees labeled "to be saved" on the approved site plan are destroyed or damaged, as determined by the Zoning Administrator, said trees shall be replaced with trees of comparable type, prior to issuance of a Certificate of Occupancy.

#### **Section 3.14 Plant Materials.**

Whenever in this Ordinance planting is required, it shall be planted within six (6) months from the date of completion of the building or improvement, and shall thereafter be reasonably maintained with permanent plant materials. Plastic and other non-organic, non-living plant materials shall be prohibited from use and shall not be in compliance with the spirit and intent of this Ordinance.

1. Plant Material Spacing.

- a. Trees shall not be planted closer than four (4) feet from the fence line or property line, and shrubs shall not be planted closer than two (2) feet from the fence or property line.

2. Suggested Plant Materials

Minimum Size

- a. Deciduous Trees Two (2) inch Caliper and ten (10) feet in height

- 1.) Oaks
- 2.) Hard Maple
- 3.) Hackberry
- 4.) Birch
- 5.) Planetree (Sycamore)
- 6.) Ginkgo (male)
- 7.) Beech
- 8.) Sweet-Gum
- 9.) Honey Locust
- 10.) Hop Hornbeam
- 11.) Linden

- b. Ornamental Trees One and a half inch caliper and five (5) feet in height

- 1.) Flowering Crab
- 2.) Russian Olive
- 3.) Mountain Ash
- 4.) Dogwood
- 5.) Redbud
- 6.) Rose of Sharon
- 7.) Hornbeam
- 8.) Hawthorn
- 9.) Magnolia
- 10.) Bradford Pear

- c. Evergreen Trees Five (5) feet in height

- 1.) Hemlock
- 2.) Fir
- 3.) Pine
- 4.) Spruce
- 5.) Douglas-Fir

- d. Narrow Upright Evergreens Four (4) feet in height

- 1.) Column Honoki Cypress
- 2.) Blue Columnar Chinese Juniper
- 3.) Pyramidal Red-Cedar
- 4.) Irish Yew
- 5.) Douglas Arborvitae
- 6.) Columnar Giant Arborvitae

e. Ornamental Shrubs Twenty-four (24) inches in height or width

- 1.) Honeysuckle
- 2.) Viburnum
- 3.) Mock-Orange
- 4.) Forsythia
- 5.) Lilac
- 6.) Cottoneaster
- 7.) Hazelnut
- 8.) Euonymus
- 9.) Privet
- 10.) Buckthorn
- 11.) Sumac

f. Evergreen Shrubs Twenty-four (24) inch in height or width

- 1.) Globe Arborvitae
- 2.) Dwarf Mugo Pine
- 3.) Andorra Juniper
- 4.) Broadmoor Juniper
- 5.) Tamarix Juniper

### 3. Trees Not Permitted

- a. Box Elder
- b. Soft Maples
- c. Slippery Elms
- d. Poplars
- e. Willows
- f. Horse Chestnut (nut bearing)
- g. Tree of Heaven
- h. Catalpa
- i. Ginkgo (female)
- j. Basswood
- k. Chinese Elm
- l. Cottonwood

### Section 3.15 Screening Walls.

1. For the Use Districts and uses listed below, there shall be provided and maintained on those sides abutting or adjacent to a residential district, an obscuring wall. The height of the wall shall be constructed and measured from the surface of the parking area or land on the nonresidential side of the wall:

		MINIMUM
<u>USE</u>		<u>HEIGHT REQUIREMENTS</u>
a.	Off-street Parking Area	4'-6" high wall
b.	Commercial and Industrial Districts	4'-6" high wall
c.	Mobile Home Parks Multiple Family	4'-6" high wall

- |    |  |                                   |
|----|--|-----------------------------------|
| d. | Open Storage Areas and Loading and Unloading Zones | 4'-6" to 8'-0" high wall or fence |
| e. | Trash Receptacles                                  | 6'-0" high wall                   |
| f. | Utility Buildings, Stations, and Substations       | 6'-0" high wall or fence          |
2. In the case of the variable wall height requirement in "d" above, the extent of obscuring wall shall be determined by the Planning Commission on the basis of land usage, provided further that no wall or fence shall be less than the above required minimum, nor greater than the above required maximum height.
  3. Required walls shall be located on the lot line except where underground utilities interfere and except in instances where this Ordinance requires conformance with yard setback lines. Upon review of the site plan, the Planning Commission may approve an alternate location for the wall, or may modify the wall requirement by approving either an earth berm or evergreen screen. The Planning Commission may also waive the wall requirement if in specific cases where cause can be shown that no good purpose would be served by the screening requirement.
  4. Required walls shall have no openings for vehicular traffic except as may be approved by the Planning Commission. All walls herein required shall be constructed of materials approved by the Zoning Administrator to be durable, weather resistant, and easily maintained.
  5. The requirement for an obscuring wall between off-street parking areas, outdoor storage areas, and any abutting residential district shall not be required when such areas are located more than two-hundred (200) feet distant from abutting residential district(s).

### **Section 3.16 Lot Size Averaging.**

Lot size averaging may be permitted by the Planning Commission, upon application from the property owner, if it determines that it will provide a better relationship of lots to the topography, vegetation, or other natural or man-made features. Lot size averaging is the allowance for a change in lot area and width in a development, but with the average lot area meeting the minimum area as required for the particular zoning district.

In the case where lot size averaging is permitted, the following conditions shall be met:

1. Reduction of lot area or width below the minimum required for the zoning district shall not be permitted for more than one-third of the total number of lots in the development.
2. No lot shall have an area or width more than ten (10) percent below that area or width required in the district.
3. All computations showing lot area and the average resulting through this technique shall be indicated on the print of the preliminary plat.
4. The submittal shall be reviewed and approved in accordance with terms, conditions, and standards of the Land Division Act, PA 288 of 1967, as amended.

### **Section 3.17 Supplemental Setbacks for Properties Along Railroad Rights-of-Way.**

1. Any lot created or recorded after the adoption of this Ordinance, that is adjacent to or along a railroad right-of-way, shall not be used for any residential purpose unless it has a depth of at least two-hundred and fifty (250) feet. In no case, on a lot created, transferred, or recorded after the adoption of this



Ordinance, shall any dwelling unit be closer than one-hundred seventy-five (175) feet from the railroad right-of-way.

### **Section 3.18 Ponds.**

1. Ponds created for livestock watering, irrigation, fish or aquatic life, or for recreational or aesthetic purposes are a permitted use subject to the approval of the Zoning Administrator upon the finding that the plans meet the following requirements:
2. Site Requirements.
  - a. All approved ponds shall be on a contiguous parcel of at least five (5) acres.
  - b. Ponds shall only be of an excavation type as defined by the Soil Conservation Service engineering standard, and all ponds shall be constructed to the NRCS standards. (See Standard 378 of the Natural Resource Conservation Services, as amended.)
  - c. No commercial activities including public fishing shall be allowed unless approved by the Planning Commission as a home business.
3. Yard and Placement Requirements.
  - a. The pond shall be a minimum distance of fifty (50) feet from any property line.
  - b. Any artesian well or other water overflow from a pond that could affect adjacent property shall be provided with adequate drainage.
  - c. Ponds shall be located a minimum of one-hundred (100) feet from the septic tank or field.
  - d. Ponds shall be constructed in such a manner that runoff, overflow, spillage or seepage shall not encroach upon adjacent properties owned by another person.
  - e. Ponds shall have warning signs and lifesaving equipment as required by the State of Michigan.
4. Permit Requirements.
  - a. A site layout shall be submitted to the Zoning Administrator for his or her determination that it meets the requirements of this Section prior to the issuance of a Zoning Permit.
  - b. No Zoning Permit shall be issued, and no pond shall be constructed without first obtaining a permit from the Department of Environmental Quality (MDEQ) if such pond would be:
    - 1.) Five (5) acres or greater in area, or
    - 2.) Connected to an existing lake or stream, or
    - 3.) Located within five hundred (500) feet of the ordinary high water of an existing inland lake or stream, or
    - 4.) Located within a regulated wetland.
5. The obtaining of the permit from the Department of Environmental Quality (MDEQ) shall not relieve a person from also complying with the requirements of this Section.

### **Section 3.19 Keeping of Animals.**

The keeping of animals, other than those associated with farming operations in the Agricultural District, shall be permitted provided:

1. The parcel on which the animals are located is not within a recorded plat.

2. The minimum area for the keeping of domesticated pets or recreation animals, except as otherwise provided, shall be three (3) acres. One (1) horse, mule, donkey, or cow, or two (2) goats, sheep, hogs, or other similar domestic animal raised and kept as a pet or for recreational purposes, shall be permitted on the first three (3) acres. Additional animals, in the quantity described above, shall be permitted for each additional acre of land up to forty (40) acres.
3. The minimum area for the keeping of domesticated fowl, except as otherwise provided, shall be three (3) acres. Twenty-five (25) chickens, ten (10) turkeys, geese, or other similar domestic fowl, when raised and kept for other than commercial breeding and/or commercial egg production, shall be permitted on the first three (3) acres. Additional animals, in the quantity described above, shall be permitted for each additional acre of land up to forty (40) acres.
4. The minimum area for the keeping of rabbits and other similar small animals except as otherwise provided, shall be three (3) acres. Ten (10) rabbits or similar small animals, when raised and kept for other than commercial breeding, shall be permitted on the first three (3) acres. Additional animals, in the quantity described above, shall be permitted for each additional acre of land up to forty (40) acres.
5. The keeping of animals, as described above, shall further be subject to any applicable State and Mason County health regulations.

### **Section 3.20 One- and Two-Family Dwelling Standards.**

1. A Zoning Permit issued by Mason County shall be required before any dwelling unit is constructed, relocated, or moved into Mason County. All dwelling units and additions thereto shall be able to meet or exceed the construction standards of the County Building and Fire Codes. In addition, the following regulations shall apply:
  - a. The use of an unfinished basement or garage as a temporary or permanent dwelling is hereby declared to be undesirable and in violation of this Ordinance. No occupancy permit shall be issued for any basement structure or similar structure which has not been completed.
  - b. Plans for modular, prefabricated units, and similarly constructed units shall be approved by the State of Michigan Construction Code Commission as meeting the State Construction Code (Public Act 230 of 1972 and Public Act 371 of 1980) prior to the issuance of a building or occupancy permit.
  - c. Mobile homes shall meet or exceed the requirements imposed by the United States Department of Housing and Urban Development Mobile Home Construction and Safety Standards (24 CFR 3280, and as from time to time such standards may be amended). The Zoning Administrator shall be furnished a certificate stating that such dwelling meets the minimum building code requirements applicable to such a structure. Any addition to such a mobile home must be designed and constructed by the manufacturer of such a mobile home, or must be based upon an architectural plan deemed compatible with the overall design of the mobile home and approved by the Zoning Administrator ~~Planning Commission~~.
  - d. All single-family dwelling units shall have a minimum width across any front, side, or rear elevation of twenty-four (24) feet at the time of construction or placement.
  - e. All dwelling units shall be firmly attached to a permanent foundation constructed on the site in accordance with the Mason County Building Code and shall have ~~skirting a wall~~ of the same perimeter dimensions of the dwelling and additions thereto and constructed of the same or similar ~~such~~ materials and type as the dwelling required in the Building Code.
  - f. In the event that the dwelling is a mobile home, as defined herein, such dwelling shall also 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 and regulations of the Michigan Mobile Home Commission and shall have a continuous perimeter wall as required above.

- g. Each dwelling shall be connected to a public sewer and water supply or to approved private facilities. Road culvert permits shall be obtained from the Mason County Road Commission and/or MDOT.
- h. 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 in the Ordinance of the County pertaining to such parks.

### **Section 3.21 Single-Family Cluster Housing.**

The intent of this Section is to permit the development of single-family residential patterns which, through design innovation, will introduce flexibility so as to provide for a more appropriate development in situations where the normal subdivision approach would otherwise be restrictive owing to the presence of environmentally sensitive lands on the site, or the configuration of the site.

- 1. The Planning Commission may approve the clustering and/or attaching of single-family dwelling units on parcels of land ten (10) acres or more in size, under single ownership and control.
- 2. The Planning Commission shall convene a public hearing held in accordance with the Michigan Zoning Enabling Act, PA 110 of 2006, Section 16(b) of PA 184 of 1943, as amended, as part of its review, study, and approval of an area for the cluster housing option.
- 3. In the design of clustered developments, the minimum yard setbacks, heights, and minimum lot sizes per unit as required by the Schedule of Regulations may be waived and the attaching of dwelling units may be accomplished subject to the following:
  - a. The minimum floor area for all units constructed under this option shall be at least equal to the minimum floor area requirements for the R, Single-family Residential District in which the cluster is to be constructed.
  - b. The attaching of single-family dwelling units, one to another, may be permitted when said homes are attached by means of one or more of the following:
    - 1.) Through a common party wall which does not have over seventy-five (75) percent of its area in common with an abutting dwelling unit wall.
    - 2.) By means of an architectural wall detail which does not form interior room space.
    - 3.) Through a common party wall in only the garage portion of an abutting structure.
  - c. The attachment of more than four (4) units in the above-described manner shall not be permitted.
  - d. In a single-family cluster housing development, the dwelling unit density shall be no greater than if the gross land area were to be developed in the minimum square foot lot areas as required for each single-family district under the Schedule of Regulations.
- 4. Yard requirements shall be provided as follows:
  - a. Spacing between any grouping of four (4) or less single-family units and another grouping of such structures shall be equal to at least twenty (20) feet, measured between the nearest point of the two groupings. A grouping may include a single, freestanding unit.
  - b. All such groupings shall be so situated as to have one side of the building abutting onto a common open space.

- c. That side of a building adjacent to a dedicated street shall not be nearer to said street than twenty-five (25) feet; however, this yard setback requirement shall be increased to fifty (50) feet if the street is a quarter section line or section line road.
  - d. This nature of development, when abutting a front yard of an existing recorded subdivision which is not a part of the site plan submitted under this Section, shall cause all dwelling units facing such subdivision to relate through its front or entrance facade and shall treat said side of the grouping as a front yard.
  - e. No building shall be located closer than thirty (30) feet to the outer perimeter (property line) of the site.
  - f. No single-family dwelling or development will be permitted if the construction of the dwelling or development causes an existing livestock operation to fall out of compliance with GAAMPS requirements.
5. The building height shall not exceed two and one-half stories or twenty-five (25) feet, whichever is less. In computing the building height of an individual unit in a cluster on a slope in excess of ten (10) percent and when the unit is constructed on posts, the first ten (10) feet of the height of the posts shall not be computed. Application of the definition of "Building Height" shall apply over and above this ten (10) feet of post height.
  6. In reviewing the plans and approving the application of this Section to a particular site, the Planning Commission shall require a landscaped berm, at least five (5) feet high, or a ten (10) foot landscaped greenbelt shall be provided along the entire property line abutting the major thoroughfare. This berm may be included within a required side or rear yard. The Planning Commission shall find that the slopes on said berms are gentle enough so as not to erode when planted in grass; and they shall review the design of the berm as it relates to street intersections, finding that it conforms with corner clearance visibility regulations, see Section 3.04
  7. In submitting a proposed layout under this Section, the sponsor of the development shall include, along with the site plan, typical building elevations and floor plans, topography drawn at two (2) foot contour intervals, main floor grade elevations relative to the existing topography, all computation relative to acreage and density, details relative to the proposed berm or greenbelt, and any other details which will assist in reviewing the proposed plan.
  8. Site plans submitted under this option shall be accompanied by information regarding the following:
    - a. The proposed manner of holding title to open land.
    - b. The proposed method of regulating the use of open land.
    - c. The proposed method of maintenance of property and financing thereof.
  9. Fifty (50) percent of land in the proposed development shall be set-aside for the use of all occupants of the development. All such lands shall be protected by restrictions or covenants running with the land and must be approved by the County Attorney to assure the following:
    - a. That title to the open space is held in common by the owners of all dwelling units in the detached single family cluster development.
    - b. A permanent organization for maintenance and management of all such areas shall be assured by legal documents prior to the issuance of the building permit.

**Section 3.22 Outdoor Storage in on Residential Districts Properties.**

1. The provisions of this Section shall apply in all residential districts and on property used for residential purposes.
2. Storage in a residential district shall be permitted only when it is accessory to the principal use of the parcel or adjacent parcel when owned by the same person.
3. The storage of tents, fish shanties, travel trailers, utility trailers, recreation vehicles, and similar items shall not be permitted within the required front yard.
4. No storage shall be permitted closer than five (5) feet to any dwelling unit, nor closer than three (3) feet to any side lot line.
5. ~~Semi trailers, over the road commercial haulers, gravel trains, and similar vehicles licensed for 20,000 pounds or more gross vehicle weight (GVW) are not permitted to be parked or stored in any residential districts except in a completely closed building, said building subject to size limitations set forth in this Ordinance.~~
6. Licensed motor homes shall not be stored or parked in the required front yard for a period exceeding twenty-four (24) hours.
7. The storage or parking of trucks of more than one and one-half (1-½) tons and semi trailers in residential districts is governed by this Section.
  - a. The storage or parking of trucks of more than one and one-half (1-½) tons and semi trailers is prohibited in the RR, R, MHP, GB, and F Districts, except as herein provided.
  - b. The storage or parking of trucks of more than one and one-half (1-½) tons and semi trailers is permitted in the AG and RE Districts, subject to the following requirements:
    - 1.) Trucks and semi trailers shall not be stored or parked within the front or side yards.
  - c. Trucks accessory to a farm operation in the AG district shall be exempt from these regulations.
  - d. One (1) truck of more than one and one-half (1-½) tons and semi trailers may be parked on a residential property in any zone if a resident of the dwelling drives the vehicle for employment, except in the R and RR districts.
  - e. Storage or parking of trucks of more than one and one-half (1-½) tons and semi trailers is entirely prohibited within a public right-of-way.

### **Section 3.23    Swimming Pools.**

1. All swimming pools erected in the County greater than thirty-six (36) inches in depth shall comply with the following requirements:
  - a. Pool Location: The pool or its fence must not be built within the required front yard or required corner lot side yard. Rear yard setbacks shall not be less than ten (10) feet between the pool outside wall and the rear property line, or less than the established easement width at the rear property line, or less than ten (10) feet between pool wall and any building on the lot.
  - b. Fence: For the protection of the general public, all swimming pools shall be completely enclosed by a fence or other means of access control. Above ground pools may have gates, removable or swing up steps, or other means to limit entry in lieu of a fence.
  - c. Electrical Installations: All electrical installations or wiring in connection with swimming pools, shall conform to the provisions of the electrical code applicable in the State of Michigan. If service drop

conductors or other utility wires cross under or over a proposed pool area, the applicant shall make satisfactory arrangements with the utility involved for the relocation thereof before a permit shall be issued for the construction of a swimming pool. A no fault ground unit should be provided to protect against electrical shock.

- d. Zoning Permit: A Zoning Permit is required prior to the construction of the pool or the installation of electrical service.

### **Section 3.24 Temporary Dwelling Structures.**

1. A temporary permit may be issued by the Zoning Administrator for a commercial or residential building to be occupied for a period up to six (6) months while either a permanent building or related construction is being completed, subject to the following provisions:
  - a. Compliance with the County Health Code shall precede occupancy of any such temporary dwelling.
  - b. The location of the temporary dwelling shall conform to all yard and setback limitations of the district.
  - c. The use of the dwelling and premises shall not be harmful to health, safety, or the public welfare.
  - d. The use of the temporary dwelling structure shall be limited to twelve (12) months, beginning with the issuance of the permit therefore, and the permit may be renewed for one (1) year, at the discretion of the Zoning Administrator. (4-20-05)
  - e. A mobile home may be utilized as temporary housing provided the mobile home is located on the same lot or parcel of land where a single-family dwelling is to be constructed or rebuilt due to a natural disaster, fire, flood, windstorm or tornado. (4-20-05)
  - f. The Zoning Administrator may recommend to the County Board of Commissioners that a performance guarantee be issued prior to the mobile home being delivered. The performance guarantee will be in the form of a surety bond, cash deposit, irrevocable bank letter of credit, or certified check (as determined by the County Board of Commissioners) in an amount that will guarantee the removal of the mobile home upon receiving the occupancy permit for the residence. (4-20-05)
  - g. Application for the erection or use of such a temporary dwelling structure shall be made in writing to the Zoning Administrator. Applicant must certify that the use of the dwelling and premises will conform to the Mason County Zoning Ordinance and do agree that if construction of the permanent dwelling is not begun within 30 days of the issuance of this permit and diligently pursued thereafter, that permit for such temporary dwelling will be declared void. When the temporary occupancy permit has expired, the mobile home shall be removed from the lot or parcel. (4-20-05)

### **Section 3.25 Satellite Dish Antennas (greater than one (1) meter in diameter).**

1. No satellite dish antenna shall be constructed, installed, maintained, or operated in any district except in conformance with the following requirements.
  - a. The satellite dish antenna shall comply with all setback requirements for the zoning district in which it is located.
  - b. The satellite dish antenna shall be permanently attached to a foundation in accordance with the Michigan State Construction Code.
  - c. No part of the satellite dish antenna or its foundation, equipment, or devices connected with that antenna shall exhibit or display any name, message, symbol, graphic representation, or other writing visible from adjoining properties or access road.

### **Section 3.26 Keeping of Pets.**

1. The keeping, raising, and breeding of pet animals, including dogs, for show purposes, protection of property, or for personal enjoyment is allowed in any zoning district, subject to the following conditions:
  - a. The keeping of two (2) or fewer dogs is generally considered to have minimal nuisance value, and no site improvement or method of housing said pets is required. However, this does not set aside requirements to comply with county or state regulations regarding licensure, personal liability, and freedom to leave the property.
2. The keeping of more than two (2) but less than six (6) dogs four (4) months old or older requires the following site improvements and housing requirements:
  - a. In the event said pets are housed outside the principal structure on the site, the structure housing the pets shall be located no less than twenty-five (25) feet from any lot line. In the event a fence is not located around the perimeter of the site, a fence shall be constructed around the structure housing said pets.
  - b. The height of the required fence shall be adequate to prevent any pet from getting beyond the boundaries of the fenced enclosure. The fence shall be adequately secured to the ground to prevent tunneling beneath the fence.

### **Section 3.27 Nonconformities (6-25-08).**

#### **1. General Provisions**

- a. **Violations not permitted nonconforming status.** Any lot, use of land, or structure which has been established in violation of the provisions of a previous Zoning Ordinance having jurisdiction at the time the use of land or structure was established, and any lot, use of land, or structure which has been lawfully established under a previous Zoning Ordinance and subsequently violates the terms of the permit under which it was established, shall continue to be in violation of this Ordinance.
- b. **Preexisting legal lots, structures and uses.** An existing lot, use of land, or structure which does not fully comply with the provisions of this Ordinance, as amended, and either was lawfully established under a previous Zoning Ordinance, created, or commenced during a period of time when no valid Zoning Ordinance was in effect, or was lawfully established under the jurisdiction of this Ordinance (before amendment), and remains in compliance with the terms of a permit issued at that time, shall be permitted to continue provided there is compliance with this Section.
- c. **Under construction.** A lawful use of land or structure which is legally under construction at the time of adoption of this Ordinance may continue to establish the building or structure as it was approved before the enactment of this Ordinance provided construction has been diligently pursued within thirty (30) days after the passage of this ordinance, and the construction of which shall be completed within twelve (12) months after said date of adoption.
- d. **Maintenance and repairs.** Normal maintenance and incidental repairs limited to the following may be performed on any nonconforming structure or structure containing a nonconforming use:
  - (1) Repair or replacement of existing non-bearing walls in their current location and configuration.
  - (2) Replacement of lighting fixtures.
  - (3) Replacement of electrical wiring or electrical service.

- (4) Replacement of plumbing fixtures such as sinks, toilets, showers, etc.
- (5) Replacement of mechanical systems such as a water heater, furnace, or air conditioner.

## 2. Nonconforming Uses

- a. **Moving.** No part of any nonconforming use shall be moved unless the movement is in connection with a change to a use permitted in the district in which it is located or the nonconformity is reduced.
- b. **Abandonment.** If a nonconforming use is abandoned for any reason for a period of more than one (1) year, any subsequent use shall conform to the requirements of this Ordinance. A nonconforming use shall be determined to be abandoned if one (1) or more of the following conditions exists, and shall be deemed to constitute an intent on the part of the property owner to abandon the nonconforming use:
  - (1) Utilities, such as water, gas and electricity to the property, have been disconnected.
  - (2) The property, buildings, and grounds, have fallen into disrepair.
  - (3) Signs or other indications of the existence of the nonconforming use have been removed.
  - (4) Removal of equipment or fixtures that is necessary for the operation of the nonconforming use.
  - (5) Other actions, which in the opinion of the Zoning Administrator constitute an intention of the part of the property owner or lessee to abandon the nonconforming use.
- c. **Substitution.** A nonconforming use shall not be changed to another nonconforming use unless the proposed use is more conforming than the previous use (e.g., a less intense use), as determined by the Zoning Board of Appeals. Once a conforming use is established the prior nonconforming use may not be reestablished.
- d. **Enlargement (non-single family).** A nonconforming use shall not be enlarged or increased, nor extended to occupy a greater area of land than was occupied at the effective date of the adoption or amendment of this Ordinance, except as may be permitted by the Zoning Board of Appeals upon reaching a determination that the proposed enlargement, increase, or greater area (6-25-08):
  - (1) Does not have a substantial detrimental effect on the use and enjoyment of adjacent uses or lots.
  - (2) Complies with all parking, sign, or other applicable regulations applicable to accessory uses for the area affected by the proposed enlargement, increase, or greater area.
  - (3) Complies with any reasonable conditions imposed by the Zoning Board of Appeals that are necessary to ensure that the proposed enlargement, increase, or greater area will not prove detrimental to adjacent properties, the neighborhood, or the community.
  - (4) Is not larger than twenty percent (20%) of the original nonconforming area including parking and outdoor storage areas.



- e. **Nonconforming Single Family Uses:** A nonconforming single family use on a single lot may be expanded or enlarged as follows:
  - (1) The principal structure may be enlarged by a maximum of twenty percent (20%) percent of the total square footage which existed when the use became nonconforming, provided that all applicable dimensional standards ~~yard~~ and other zoning restrictions are met.
  - (2) An accessory building may be constructed in accordance with the applicable provisions of this Ordinance.
- f. **Acquisition.** The Zoning Administrator may, after approval of the County Board of Commissioners, acquire by purchase, condemnation, or otherwise, private property or an interest in private property for the removal of nonconforming uses. The cost and expense, or a portion of the cost and expense, of acquiring the private property may be paid from general funds or assessed to a special district in accordance with the applicable statutory provisions relating to the creation and operation of special assessment districts for public improvements. Procedures under the provisions of Act 149 of the Public Acts of 1911, as amended, being Sections 213.21 to 213.41 of the Michigan Compiled Laws, will be followed.
- g. **Destruction.** Should a structure housing a nonconforming use be destroyed by any means to an extent of more than fifty (50) percent of the replacement value of the structure at the time of destruction, it shall not be reconstructed except in conformity with the provisions of this Ordinance unless approval is granted by the Zoning Board of Appeals. In deciding requests for replacement of a structure housing a nonconforming use, the Zoning Board of Appeals shall consider the following:
  - (1) Whether the reconstruction will substantially extend the probable duration of such a nonconforming use, and
  - (2) Whether the reconstruction will interfere with the use of other properties in the surrounding neighborhood for the uses for which they are zoned, or with the use of such other properties in compliance with the Ordinance.

### 3. **Nonconforming Buildings and Structures.**

- a. **Moving.** If a nonconforming structure is moved, it shall thereafter conform to the regulations for the district in which it is located after it is moved.
- b. **Expansion and Modification.** Nonconforming structures shall not be extended or enlarged except after approval of the Zoning Administrator provided that:
  - (1) Maintenance or remodeling, including a new basement or increasing the height of the building, not to exceed the height allowed in the district in which the property is located, is allowed within the existing footprint of livable floor area of a nonconforming building structure.
  - (2) Additions, up to 10% of the existing gross floor area may be made where all of the requirements of this ordinance are met except the basis for the existing nonconformity.
  - (3) Any portion of the building may be replaced where the entire footprint is more conforming than the existing nonconforming footprint.
  - (4) All other expansions, modifications, or improvements shall require approval from the Zoning Board of Appeals provided that:

i. The enlargement, alteration, or extension will not interfere with the use of any other properties in the vicinity for the uses for which they have been zoned nor with their use in compliance with all of the provisions of this Ordinance.

ii. That the enlargement, alteration, or extension is, to the maximum extent possible, consistent with the dimensional regulations and character of those uses permitted within the district.

c. b. **Destruction.** Should a nonconforming structure be destroyed by any means to an extent of more than fifty (50) percent of the replacement value of the structure at the time of destruction, it shall not be reconstructed except in conformity with the provisions of this Ordinance unless approval is granted by the Zoning Board of Appeals. In deciding requests for replacement of a nonconforming structure, the Zoning Board of Appeals shall consider the following:

(1) The replacement of the nonconforming structure will not interfere with the use of any other properties in the vicinity for the uses for which they have been zoned or with the current use of such other properties in compliance with this Ordinance.

(2) That the replacement structure, to the maximum extent possible, is consistent with the dimensional regulations and character of those structures permitted within the district.

#### **4. Nonconforming Lots of Record**

a. **Use.** A principal structure and customary accessory buildings may be erected on a nonconforming lot provided that all applicable zoning requirements are met.

b. **Combination of Nonconforming Lots.** In the event that two (2) or more nonconforming lots of record or portions of lots of record are in common ownership and are adjacent or have continuous frontage, these lots shall be combined to create a conforming lot. Two (2) or more lots that are adjacent or have continuous frontage may be combined to create a more conforming lot if a variance is granted by the Zoning Board of Appeals.

#### **Section 3.28 Height Exceptions.**

Except as herein provided, no structure shall be erected or altered to exceed the height limit established by this Ordinance for the district in which such structure is located.

1. Chimneys; church towers and steeples; roof structures for the housing of elevators; stairways; tanks or ventilating equipment; firewalls; skylights; electrical transmission and communication poles; towers and antennas; theater screens; flag poles; smokestacks; chimneys; water tanks; silos; conveyors, or similar structures may be erected above the height limits established for the district in which such structure is located provided the requirements of this section are met.
2. If the height of any building, structure, or tower exceeds the height allowed in the district wherein the building or structure is located, then all required side-yard dimensions shall be increased by not less than one (1) foot for each one (1) foot each building exceeds the height allowed in the district concerned.

#### **Section 3.29 Adult Foster Care Family Homes.**

In accordance with the State of Michigan regulations, Adult Foster Care Family Homes shall be permitted within all the residential zoning districts and shall comply with all applicable Local Health Department and State Department of Health regulations.

### **Section 3.30 Day Care Family Homes.**

In accordance with the State of Michigan regulations, Day Care Family Homes and Day Care Centers providing supervision or care, or both, to six (6) or fewer children shall be permitted within all the residential zoning districts and shall comply with applicable Local Health Department and State Department of Health regulations.

### **Section 3.31 Reserved.**

### **Section 3.32 Repair and Clean up of Damaged or Destroyed Buildings.**

The owner of any building or structure which has been damaged or destroyed by fire, windstorm, or other casualty shall repair such damage within one (1) year after its occurrence. In the event the building or structure is damaged beyond repair, any part left standing after such damage or destruction shall be razed pursuant to a permit therefore to be granted pursuant to this Ordinance.

### **Section 3.33 Trailer Coaches. (10-25-06)**

The occupancy, for temporary living quarters, of a recreational vehicle, trailer coach, camper-trailer or similar vehicle or conveyance shall be subject to the provisions of this section. ~~For purposes of this Section, a trailer coach is defined as a wheeled, semi-vehicular conveyance, including a travel trailer, designed to be towed by an automobile or other motor vehicle and when parked on a parcel of land, to be used for temporary dwelling purposes. A trailer coach is not a mobile home, manufactured home or recreational vehicle.~~

1. No person shall locate, place, use, occupy or permit the use of any recreational vehicle, trailer coach, camper-trailer or similar vehicle or conveyance on any parcel of land other than within a licensed mobile or manufactured home park, a state licensed campground or other licensed land use in compliance with this ordinance, for more than 30 days, whether consecutive or non-consecutive, in any calendar year except as follows:

A licensed and safely operable recreational vehicle, trailer coach or camper-trailer may be placed or stored, but not used or occupied as living quarters, in the side yard or in the rear yard on a parcel of land on which the owner of the recreational vehicle, trailer coach or camper-trailer has a dwelling.

A mobile home may be used as a temporary dwelling, as regulated under Section 3.24.

2. A recreational vehicle, trailer coach or camper-trailer may be located, used and occupied as living quarters for more than 30 consecutive days only in compliance with the following requirements.
  - a. The recreational vehicle, trailer coach or camper-trailer shall have a current valid registration and state license, if required by law.
  - b. The placement, use and occupancy of the recreational vehicle, trailer coach or camper-trailer shall comply with the County Sanitary Code if used as living quarters or if otherwise regulated by the Code.

The location, use and occupancy of the recreational vehicle, trailer coach or camper-trailer shall be permitted only under the terms of a temporary land use and occupancy permit issued by the Zoning Administrator for a period not to exceed 90 days, whether consecutive or non-consecutive, in any calendar year. The temporary land use and occupancy permit shall be issued only in the discretion of the Zoning Administrator and upon a determination that the use shall comply with the provisions of this section and other applicable provisions of this ordinance. Once issued, the permit shall be displayed by the applicant in a window or in an otherwise prominent place on the recreational vehicle, trailer coach or camper-trailer, in such a manner that the date of

issuance of the permit and the required date of removal of the recreational vehicle, trailer coach or camper-trailer shall be readily visible.

The permitted number of recreational vehicles, trailer coaches or camper-trailers on a parcel of land shall be subject to subsection 3 of this section.

3. No more than four (4) recreational vehicles, trailer coaches or camper-trailers or similar vehicles or conveyances shall be placed, located, used or occupied on a parcel of land for more than 30 days, whether consecutive or non-consecutive, in any calendar year unless they are lawfully located in a mobile or manufactured home park, a state-licensed and county-approved campground or other licensed land use in compliance with this ordinance; provided, however, that this provision shall not apply to a licensed dealer of such recreational vehicles, trailer coaches or camper-trailers or similar vehicles or conveyances where such use is permitted by the terms of the zone district in which the parcel of land is located or where the use is otherwise permitted by the terms of this ordinance.
4. This section does not regulate cabins, which are permitted as a special land use in the F Forestry District, under the terms of Section 14.03.
5. This section does not regulate outdoor recreation uses, which are regulated as special land uses in the RE, R-R, C, GB and F Districts.

#### **Section 3.34 Supplementary Setback Provisions for Waterfront Lots in All Districts.**

On waterfront lots in any district, no part of any structure other than one (1) boat dock may be within forty (40) feet of the high waterline.

#### **Section 3.35 Supplementary Provisions for Single Wide Mobile Home Uses. (10-24-05)**

1. No mobile home will be allowed for purposes other than a permanent or temporary dwelling. Mobile homes will not be allowed as storage buildings or any accessory use to the principal dwelling.
2. Combining two mobile homes for use as one single family dwelling is prohibited.

#### **Section 3.36 Temporary Outdoor Commercial Uses. (10-25-06)**

Temporary outdoor commercial uses shall be permitted only in accordance with the provisions of this section. For purposes of this section, temporary outdoor commercial uses are defined as the retail display and sale of vegetables and other produce, baked goods, ice cream and other foodstuffs, lawful fireworks, non-alcoholic beverages such as coffee and soft drinks, and other similar food items and merchandise at and from temporary stands, wagons, tents and other temporary devices, shelters and structures located out of doors.

1. The provisions of this section are intended to permit, on a short-term basis and under specific regulations, limited temporary commercial uses that may provide desired goods and merchandise, on a seasonal or other basis, for the benefit of the local or traveling public. Such uses are deemed, however, to be in the nature of exceptional uses, which must be carefully regulated and monitored so as to assure that they operate in a safe and convenient manner and that they will not result in serious adverse effects on adjacent or other lands or the public streets.
2. The provisions of this section do not apply to the following:
  - i. Farm markets, which are regulated by Section 3.07 and which are permitted as special land uses in the AG, RE and R-R Districts;

- j. Roadside stands, which are regulated by Section 3.07A and which are permitted uses in the AG, RE and R-R Districts;
  - k. Open air businesses, which are regulated as special land uses in the C District; and
  - l. Other lawful outdoor displays and sales of merchandise by principal permitted uses or special land uses in the C District.
  - m. A temporary outdoor commercial use shall not include a restaurant, a store building or other type of building.
3. A temporary outdoor commercial use shall be located only in the AG, RE, R-R and C-1 Districts.
  4. A temporary outdoor commercial use shall be permitted only under the terms of a written permit, which may be issued for such purpose by the Zoning Administrator, in the Administrator's reasonable discretion and if all of the provisions of this section are complied with.
    - a. The applicant shall apply for such a permit on an application form provided by the Building and Zoning Department. The applicant shall pay the application fee or other charge established by the County.
    - b. The application shall include a site plan, drawn to scale, showing all of the features of the proposed use, including the area and location to be used; the amount of off-street parking area; the setback from the street right-of-way line and property lines; the setback from any buildings on the site; the specific location of the elements of the use, including wagons, stands, tents, and other features; the location, size, height and appearance of any sign, whether on-site or off-site; and other information required by the Zoning Administrator.
    - c. The application shall include a written narrative describing the use in detail, including all the types of items, goods and merchandise that are proposed to be sold; the proposed hours of operation; measures that are to be taken to assure that the operation of the use will take place only in a safe and convenient manner; the duration of the proposed use, listing the beginning date and the ending date; and other information describing the use and which will assist the Zoning Administrator in determining whether the application should be granted.
    - d. The permit shall be applied for at least three business days prior to the expected commencement of the temporary use.
    - e. A permit for a temporary outdoor commercial use may include terms and conditions imposed by the Zoning Administrator. An applicant shall comply with all of such terms and conditions, as well as the provisions of this section and other applicable provisions of the zoning ordinance.
    - f. In considering whether to issue a permit for a temporary outdoor commercial use, the Zoning Administrator shall consider the following criteria:
      - i. Whether the use, if located and operated as stated in the application, will be in compliance with this section.
      - ii. Whether the use would have serious adverse effects on adjacent or nearby lands or the public streets.
      - iii. Whether the use would pose an unreasonable risk of an unsafe condition, in the nature of traffic hazard, potential danger to pedestrians or otherwise.

- iv. Whether the use would assist in satisfying a likely commercial need for seasonal produce, warm-weather refreshment, Independence Day fireworks or other temporary or seasonal commercial need.
- 5. The minimum requirements of a temporary outdoor commercial use are the following:
  - a. The maximum area to be occupied by all sales and display areas, including the area of any stands, wagons, tents, and other sales and display areas, shall be 500 square feet, unless a greater area is authorized by the permit.
  - b. All sales and display areas, off-street parking area, and other major components of the use shall be located at least 20 feet away from the street right-of-way lines and at least 20 feet away from any side lot line.
  - c. The produce, foodstuffs, and merchandise to be displayed or sold shall be only those authorized by the terms of the permit.
  - d. At least four off-street parking spaces shall be provided; parking spaces shall be of sufficient size and shall be so located that they can be used in a safe and convenient manner. Sufficient space for the backing up of vehicles shall be provided, outside of any street right-of-way, so that no traffic hazard will result from the circulation of motor vehicles on the site or entering or leaving the site.
  - e. Any driveway or other means of ingress to and egress from the use, from the adjacent street, shall be located at least 100 feet away from any intersecting street, as measured from the nearest right-of-way line of the intersecting street.
  - f. Only one on-site sign shall be permitted. It shall be only for the purpose of identifying the temporary use and/or the types of items offered for sale. The sign shall not be larger than 50 square feet, nor higher than eight feet. Off-site signs shall be permitted only if authorized by the permit and shall be subject to the terms thereof.
  - g. All signs shall be removed at the time the temporary use ends.
  - h. No spinners, balloons, streamers, strings of lights, inflatable signs, or similar devices shall be permitted. No more than two flags shall be permitted, and the size and height thereof shall be subject to the terms of the permit. Banners may be permitted, under the terms of the permit, but the size of the banners shall be included in the total area of the signage of the temporary outdoor commercial use, for the purpose of determining whether the total area of the signage complies with the maximum signage area permitted for the use.
  - i. The use shall not be operated after dusk, unless illumination is addressed by the terms of the permit.
  - a. The temporary use shall be operated no longer than 35 days during any calendar year.
  - j. During any time of operation of the use, the applicant shall permit the Zoning Administrator to inspect the use to determine compliance with the permit and this section.
- 6. If at any time the use is not in compliance with the permit or with the terms of this section or other applicable provisions of the Zoning Ordinance, or if the use is being operated in a manner which in the opinion of the Zoning Administrator is unsafe or excessively inconvenient for the public, or where there is risk of an unsafe condition, the Zoning Administrator may issue a stop work order.
- 7. The stop work order may be posted at the site, handed to the applicant or other person who may be operating the use, or it may be forwarded to the applicant by U. S. mail. The use shall be terminated

as of the date required for such termination in the stop work order. The stop work order shall state the reason or reasons for which it is being issued.

8. If after the issuance of the stop work order, the applicant corrects the violations noted in the order, and thereafter so notifies the Zoning Administrator, the Zoning Administrator shall then perform a re-inspection of the site and the use, and shall determine whether to withdraw the stop work order. If the order is withdrawn, the applicant may again operate the use under the terms of the original permit and under the terms of any amended or supplemental permit that may be issued by the Zoning Administrator.
9. In the case of two or more violations of the permit, the Zoning Administrator may determine that the operation of the use poses a sufficient risk of additional violations, such that the permit should be permanently revoked, in which case the applicant may not continue the use until a new application has been submitted, considered and approved.
10. The stop work order shall be only one of the available remedies, in the event of alleged violations. Other remedies set forth in Article XXV and otherwise permitted by law shall be available to the County.

### **Section 3.37 Wind Energy Systems, On site use (5-30-08)**

- 1) An On Site Use wind energy system with a tower height greater than 66.0 feet shall be considered a Special Land Use, refer to Section 17.48a.
- 2) **Setbacks:** The distance between an On Site Use wind energy system and the owner's property lines shall be at least 1 ½ times the height of the wind energy system tower including the top of the blade in its vertical position. No part of the wind energy system structure, including guy wire anchors, may extend closer than ten feet to the owner's property lines.
- 3) **Sound Pressure Level:** Sound pressure level shall not exceed 55 dB (A) at adjacent property lines to the wind energy system. The sound pressure level may be exceeded during short-term events such as utility outages and/or severe wind storms. If the ambient sound pressure level exceeds 55 dB (A), the standard shall be ambient dB(A) plus 5 dB(A).
- 4) **Sound Pressure Mediation.** Should an aggrieved property owner call into question the sound pressure level of a wind tower, the aggrieved property owner shall follow the following procedure:
  - a) Notify the County in writing regarding concerns about sound pressure and ask the County to perform a sound pressure test at the aggrieved owner's property line.
  - b) The County will request the aggrieved property owner deposit funds in an amount sufficient to pay for a sound measurement test according to the specifications of 17.48 17.a.
  - c) If the sound test indicates that the sound pressure level is within ordinance guidelines, the County will use the deposit to pay for the sound pressure test.
  - d) If the wind tower owner is in violation of the ordinance sound standards, the tower owner shall reimburse the County for the sound pressure test and take immediate action to bring the wind tower into greater compliance which may include ceasing operation of the wind turbine until ordinance violations are corrected. The County will refund the deposit to the aggrieved property owner.
- 5) **Ground Clearance:** The minimum vertical blade tip clearance with the ground shall be 20 feet.

- 6) **Construction Codes and Other Standards:** On Site Use wind energy systems including towers shall comply with all applicable state construction and electrical codes and local building permit requirements. On Site Use wind energy systems including towers shall comply with Federal Aviation Administration requirements, the Michigan Airport Zoning Act (Public Act 23 of 1950, MCL 259.431 et seq.), the Michigan Tall Structures Act (Public Act 259 of 1959, MCL 259.481 et seq.), and airport overlay zone regulations.
- 7) **Safety:** An On Site Use wind energy system shall have automatic braking, governing, or a feathering system to prevent uncontrolled rotation or over speeding. All wind towers shall have an automatic transfer switch. All wind towers shall have lightning protection. If a tower is supported by guy wires, the wires shall be clearly marked with brightly colored tubing to a height of at least six feet above the guy wire anchors. The minimum vertical blade tip clearance from grade shall be 20 feet for a wind energy system employing a horizontal axis rotor.
- 8) **Visual Impact:** Visual impact will be limited by using muted colors, industry standards that minimize visibility, and by using turbines that are consistent in the appearance. No advertising of any kind shall be allowed on the wind turbine with the exception of the manufacturer's name or logo.
- 9) **Abandonment.** If a wind tower has been abandoned for over 1 year and poses an immediate risk to health and safety due to lack of maintenance, poor structural integrity, noise, or vibration it shall be considered a nuisance and a violation of this ordinance.
- 10) **Lack of Maintenance.** If at any time the wind tower poses an immediate risk to health and safety due to lack of maintenance, poor structural integrity, noise, or vibration it shall be considered a nuisance and a violation of this ordinance.
- 11) **Anemometers (up to 66 feet in height)**
  - i) Anemometer towers greater than 66 feet in height shall be considered a Special Land Use (See Section 17.48a).
  - ii) The distance between an anemometer tower and the owner's property lines shall be at least 1 ½ times the height of the tower.
  - iii) No part of the anemometer, including guy wire anchors, may extend closer than **ten** feet to the owner's property lines.
  - iv) If a tower is supported by guy wires, the wires shall be clearly marked with brightly colored tubing to a height of at least six feet above the guy wire anchors.
- 12) **Applications:** Applications for On Site wind energy systems and anemometers less than 66 feet in height shall include:
  - a) A site plan, drawn to scale, indicating property lines, dimension and location of all structures, and structures within 100 feet of the applicant's property lines.
  - b) Tower height and turbine blade length.
  - c) Manufacturer's modeling and analysis confirming that the wind energy system will not exceed the maximum permitted sound pressure levels.
  - d) The location of the wind turbine, anemometer, guy wires, and/or related accessory structures.
  - e) Documentation that construction code, electrical code, tower interconnection (if applicable), airport overlay zoning, and safety requirements have been met.
  - f) If applicable, a copy of that portion of the applicant's lease with the land owner granting authority to install a Met tower and requiring the applicant to remove all equipment and restore the site after completion of the wind site assessment.

### **Section 3.38 Single-Family Dwellings in AG District**

1. A single-family dwelling shall require approval by the Zoning Administrator prior to issuance of any permits in the AG Districts.
2. The Zoning Administrator may require an applicant to sign a form that acknowledges receipt of information pertaining to the intent of the zoning district.



### **Section 3.39   Unclassified Uses**

1. The Planning Commission may find that a land use, while not specifically classified in this ordinance as a permitted or special land use, may be sufficiently similar to uses listed as permitted by right or as special uses. In that event, such unclassified uses may be reviewed and treated as similar classified uses within the district. In reaching such a finding, the Zoning Administrator shall first evaluate the proposed use in terms of the potential generation of traffic, congestion, noise, odors, dust, litter and similar impacts. In addition, the proposed use shall be evaluated to determine the degree to which it may support or conflict with the intent of the district and other permitted and special land uses. If the Zoning Administrator determines that such use is similar to the uses permitted by right or by special use permit, a report outlining the determination shall be provided to the Planning Commission with a recommendation to consider such use as sufficiently similar to permitted or special land uses within the district and the approval standards that should be used to evaluate the proposed use. Where a proposed use of land or use of building is not contemplated or specified by this Ordinance or where the Zoning Administrator has a question as to the appropriateness of a use, which, although permitted, involves other features, which were not contemplated or specified by this Ordinance, the Zoning Administrator shall request a determination by the Planning Commission. If the Planning Commission determines that such use is not contemplated or specified by this Ordinance, or that it involves features, which were not contemplated or specified herein, such use shall be prohibited. Nothing in this Section shall be construed to prohibit a future amendment of this ordinance pursuant to Section 25.04 to provide standards to regulate a land use that may be currently excluded.

## ARTICLE IV ZONING DISTRICTS AND MAP

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### **Section 4.01 Districts Established.**

For the purposes of this Ordinance, Mason County is hereby divided into the following districts:

AG	Agricultural District
RE	Rural Estates District
R-R	Recreational Residential District
R	Residential
MHP	Manufactured Home Park District
C	Commercial District
I	Light Industrial District
F	Forestry
GB	Green Belt
HO	Highway Overlay
NR	Rescinded 4-20-05

### **Section 4.02 District Boundaries.**

The boundaries of these districts are hereby established as shown on the Zoning Map, Mason County Zoning Ordinance, which accompanies this Ordinance, and which map with all notations, references, and other information shown thereon shall be as much a part of the Ordinance as if fully described herein. [See Appendix for copy of Zoning Map.] The Official Zoning Map shall be identified by the signature of the County Planning Commission Chair, attested by the County Clerk, under the following words: "This is to certify that this is the Official Zoning Map referred to in Section 4.02 of the Zoning Ordinance of Mason County (include date of adoption)." If, in accordance with the provisions of this Ordinance, changes are made in district boundaries or other matter portrayed on the Official Zoning Map, such changes shall be made on the Official Zoning Map after the amendment has been approved by the County together with an entry on the Official Zoning Map as follows: amended \_\_\_\_\_ date \_\_\_\_\_, amendment no. ( ).

Two (2) copies of the Official Zoning Ordinance and Map are to be maintained and kept up-to-date. One copy shall be filed in the Zoning Administrator's Office and the other shall be filed with the County Clerk which shall be the final authority as to the current zoning status of lands, buildings, and other structures in the County.

### **Section 4.03 District Boundaries Interpreted.**

Where uncertainty exists with respect to the boundaries of the various districts as shown on the Zoning Map, the following rules shall apply:

1. Boundaries indicated as approximately following the center lines of streets or highways, shall be construed to follow such center lines;
2. Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines;
3. Boundaries indicated as approximately following the County Limits shall be construed as following the County Limits;
4. Boundaries indicated as following shore lines shall be construed to follow such shore lines, and in the event of change in the shore line, shall be construed as moving with the actual shore line; boundaries indicated as approximately following the center line of streams, rivers, canals, lakes, or other bodies of water shall be construed to follow such center lines;

5. Boundaries indicated as parallel to or extensions of features indicated in Subsections 1 through 4 above shall be so construed;
6. Distances not specifically indicated on the Zoning Map shall be determined by the scale of the map;
7. Where physical or natural features existing on the ground are at variance with those shown on the Zoning Map, or in other circumstances not covered by Subsections 1 through 6 above, the Zoning Board of Appeals shall interpret the district boundaries;
8. Insofar as some or all of the various districts may be indicated on the Zoning Map by patterns which, for the sake of map clarity, do not cover public rights-of-way, it is intended that such district boundaries do extend to the center of any public right-of-way.

#### **Section 4.04 Zoning of Vacated Areas.**

Whenever any street, alley, or other public way within Mason County shall have been vacated by action of the County Board, and when the lands within the boundaries thereof attach to and become a part of lands adjoining such street, alley, or public way, such lands formerly within such vacated street, alley, or public way shall automatically, and without further action by the County Board, thenceforth acquire and be subject to the same zoning regulations as are applicable to lands to which same shall attach, and the same shall be used for the same use as is permitted under this Ordinance for such adjoining lands.

#### **Section 4.05 Division of County.**

Mason County shall be divided into zoning districts, as hereinafter described, within which districts no buildings or premises shall be used and no building shall hereafter be erected, altered, or located except for the uses and purposes hereinafter set forth as "permitted uses" under each separate zoning district classification, or hereinafter set forth as "special land uses" under each such zoning district classification; subject, however, to such prior approval as is hereinafter required to be obtained from the Planning Commission for such special land uses.

#### **Section 4.06 Access Management. (1-1-08)**

All lands in the Highway Overlay District are also subject to the requirements of Article 21.

## ARTICLE V AG, AGRICULTURAL DISTRICT

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### **Section 5.01 Statement of Purpose.**

Agricultural districts are those open areas of the County where farming, dairying, forestry operations, and other such rural-type activities exist and should be preserved and encouraged. Large vacant areas, fallow land, and wooded areas may also be included. Although the demand for other uses in these districts may ultimately outweigh their use as zoned, any such zoning changes should be made cautiously with the realization that adequate food supply is essential to the health and welfare of the County, State and Nation.

### **Section 5.02 Principal Permitted Uses.**

No building or structure or part thereof shall be erected, altered, or used, and no land shall be used except for one or more of the following:

1. Farming.
2. Farm dwellings.
3. Boarding stables.
4. Green houses.
5. Public utility facilities (not including service or storage yards), when operating requirements necessitate the location of such facilities within the district.
6. Roadside stands.
7. Wireless communication antennas.
8. Public uses.
9. Private Kennels. (10-25-06)
10. Temporary Outdoor Commercial Uses, if permitted by the Zoning Administrator under Section 3.36. (10-25-06)
11. Home Occupations if permitted by the Zoning Administrator under Section 3.10. (10-25-06)
12. On Site Use Wind Energy Systems. (5-30-08)
13. Accessory buildings and uses customarily incidental to any of the above uses.
14. Single family dwellings, if permitted by the Zoning Administrator under Section 3.38.

### **Section 5.03 Special Land Uses.**

The following Special Land Uses shall be permitted subject to review and approval by the Planning Commission and further subject to any and all reasonable conditions which may be imposed in accordance the Michigan Zoning Enabling Act; Article XVI, "Special Land Use Conditions, Review, and Approval," and Article XVIII, "Site Plan Review Procedures" of this Zoning Ordinance.

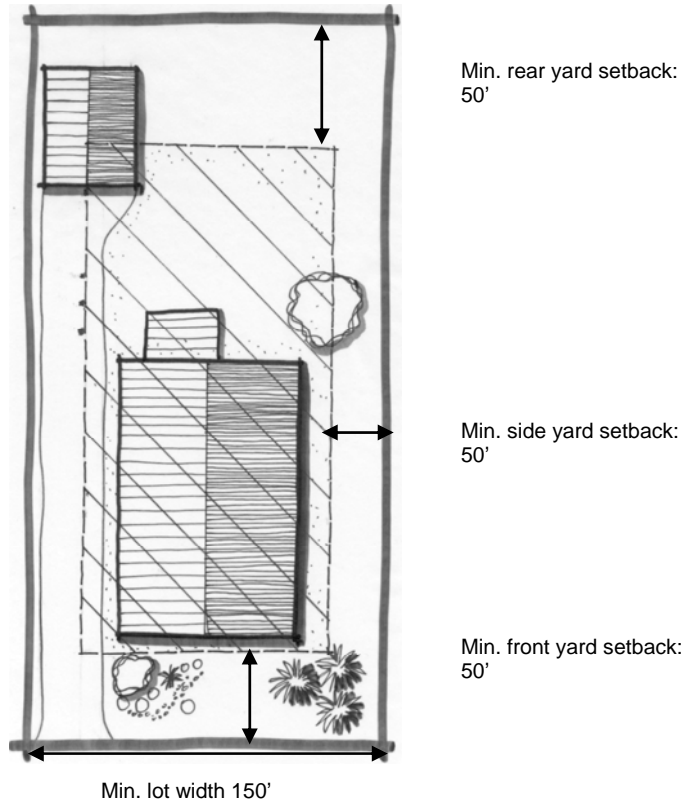
1. ~~Single Family Dwellings (Provided that the dwellings do not jeopardize GAAMPS approval for any existing farm operation).~~

2. Agribusiness.
3. Migrant Labor Housing
4. Home based businesses (10-24-05).
5. Cemeteries.
6. Airports.
7. Wineries.
8. Forest industries.
9. Utility grid wind energy systems. (5-30-08)
10. Agricultural equipment sales and service.
11. ~~Intensive animal feeding operations.~~
12. Veterinary clinics.
13. Commercial or boarding kennels. (10-25-06)
14. Farm markets. (10-25-06)
15. Wireless communication ~~support~~ facilities. (10-25-06)
16. On Site Use Wind Energy Systems (over 66 feet). (5-30-08)
17. Accessory buildings and uses customarily incidental to the above uses.
18. Sand and gravel extraction operations.
19. Golf courses.
20. Golf course driving ranges.

#### **Section 5.04 Area and Size Requirements.**

1. Minimum size per zoning lot (not including public road right-of-way or private road easement) shall be one (1) acre. This minimum shall be contingent on the issuance of required Mason County Health Department permits.
2. Minimum frontage on a public street shall be one hundred fifty (150) feet.
3. Minimum width per zoning lot shall be one-hundred and fifty (150) feet. See Section 3.16, Lot Size Averaging, Section 3.05, Cross-District Averaging, Section 3.21, Single-family Cluster Housing, and Article XXIII, Planned Unit Developments, for flexibility allowances. Minimum ~~street~~ frontage shall be one-hundred and fifty (150) contiguous feet of public road frontage. (10-24-05)
4. Maximum building height shall be two and one-half stories or thirty (30) feet, whichever is less. ~~Requirements relative to limiting height apply only to non-farm residential structures, non-farm residential accessory buildings, special land use structures, and special land use accessory buildings.~~
5. Maximum building lot coverage shall be thirty-five (35) percent. In-ground or at-grade structures are not deemed structures for computing maximum allowable building lot coverage.

6. Minimum front yard setback per zoning lot shall be fifty (50) feet. Minimum front yard setback shall be measured from the edge of the abutting right-of-way of public roads, based upon information and standards set forth by the Mason County Road Commission, or from the edge of the abutting ingress/egress easement for private roads. All yards abutting upon a public or private road shall be considered as a front yard for setback purposes, except as may otherwise be required by this Ordinance. The front yard setback requirement includes and applies to main and accessory buildings and structures.
7. The required front yard setback shall not be used for off-street parking, loading, or unloading, and shall remain as open space unoccupied and unobstructed from the ground upward except for landscaping, plant materials, fences, or vehicle access drives.
8. Minimum side yard setback per zoning lot shall be fifty (50) feet. The side yard setback requirement includes and applies to main and accessory buildings and structures.
9. Minimum rear yard setback per zoning lot shall be fifty (50) feet. The rear yard setback requirement includes and applies to main and accessory buildings and structures. In the case of a corner lot, the rear yard may be opposite either front yard, but there shall be only one (1) rear yard.
10. The minimum floor area for single-family dwelling shall be 840 square feet on the main (ground-level) floor of a one-story dwelling, a 1 ½ story dwelling, or a 2-story dwelling. (10-24-05)
11. An accessory building used exclusively for farm use is permitted to exceed the square footage limitations in Section 3.01, 4. ~~of the principal dwelling. (10-24-05)~~
12. An accessory building used exclusively for farm use is permitted on a parcel in which there is no principal dwelling. (10-24-05)



## ARTICLE VI RE, RURAL ESTATES DISTRICT

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### **Section 6.01 Statement of Purpose.**

The specific intent of the Rural Estates District is to provide open land area for orderly residential growth; to permit continued agricultural use and residential activities of a semi-rural character in areas that are presently without public water and sewerage facilities and are likely to remain without such services for an extended period of time; to protect and stabilize the essential characteristics of these areas in order to promote and encourage suitable environments for low density, family life; and to maintain and preserve the semi-rural character of the County.

### **Section 6.02 Principal Permitted Uses.**

No building or structure, or part thereof, shall be erected, altered, or used, and no land shall be used, except for one or more of the following:

1. Single-family detached dwellings.
2. Crop farming and keeping of animals as provided in Section 3.19.
3. Farm equipment sales and service.
4. Roadside stands.
5. Schools.
6. Public uses.
7. Wireless communication antennas.
8. Temporary outdoor commercial uses, if permitted by the Zoning Administrator under Section 3.36. (10-25-06)
9. Home occupations, if permitted by the Zoning Administrator under Section 3.10. (10-25-06)
10. On Site Use Wind Energy Systems. (5-30-08)
11. Accessory buildings and uses customarily incidental to any of the above permitted uses.
12. Churches.
13. Private Kennel

### **Section 6.03 Special Land Uses.**

The following Special Land Uses shall be permitted subject to review by the Planning Commission and further subject to any and all reasonable conditions which may be imposed in accordance with the Michigan Zoning Enabling Act; Article XVI, "Special Land Use Conditions, Review, and Approval," and Article XVIII, "Site Plan Review Procedures" of this Ordinance.

1. Forest industries.

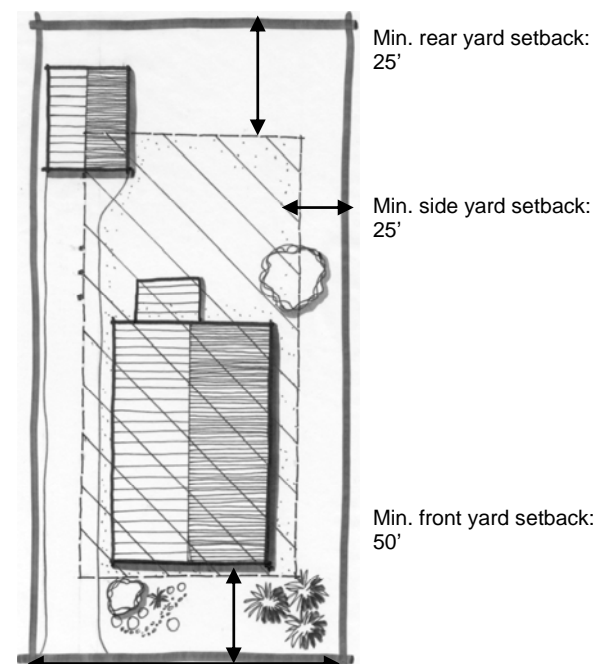
2. Bed and breakfast operations.
3. Boarding stables.
4. Public facilities.
5. Wineries.
6. Outdoor recreation.
7. Cluster housing (refer to Section 3.21).
8. Greenhouses.
9. Farm Labor Housing
10. Home based businesses. (10-24-05)
11. Commercial or boarding kennels.
12. Wireless communication support facilities.
13. Farm markets. (10-25-06)
14. On Site Use Wind Energy Systems (over 66 feet). (5-30-08)
15. Accessory buildings and uses customarily incidental to any of the above uses.
16. Golf courses.
17. Golf course driving ranges.
18. Airports.
19. Cemeteries
20. Convalescent homes.

#### **Section 6.04 Area and Size Requirements.**

1. Minimum size per zoning lot (not including public road right-of-way or private road easement) shall be one (1) acre. See Section 3.16, Lot Size Averaging, Section 3.05, Cross-District Averaging, Section 3.21, Single-family Cluster Housing, and Article XXIII, Planned Unit Developments, for flexibility allowances.
2. Minimum width per zoning lot shall be one-hundred-fifty (150) feet. See Section 3.16, Lot Size Averaging, Section 3.05, Cross-District Averaging, Section 3.21, Single-family Cluster Housing, and Article XXIII, Planned Unit Developments, for flexibility allowances. Minimum ~~street~~ frontage shall be one-hundred and fifty (150) contiguous feet of public road frontage. (10-24-05)
3. Maximum building height shall be two and one-half stories or thirty (30) feet, whichever is less. ~~Requirements relative to limiting height apply only to non-farm residential structures, non-farm residential accessory buildings, special land use structures, and special land use accessory buildings.~~



4. Maximum building lot coverage shall be thirty-five (35) percent. Building lot coverage applies only to special land use structures and special land use accessory buildings. In-ground or at-grade structures are not deemed structures for computing maximum allowable building lot coverage.
5. Minimum front yard setback per zoning lot shall be fifty (50) feet. Minimum front yard setback shall be measured from the edge of the abutting right-of-way of public roads, based upon information and standards set forth by the Mason County Road Commission, or from the edge of the abutting ingress/egress easement for private roads. All yards abutting upon a public or private road shall be considered as a front yard for setback purposes, except as may otherwise be required by this Ordinance.
6. Front yard setback requirement includes and applies to main and accessory buildings and structures. The required front yard setback shall not be used for off-street parking, loading, or unloading, and shall remain as open space unoccupied and unobstructed from the ground upward except for landscaping, plant materials, fences, or vehicle access drives.
7. Minimum side yard setback per zoning lot shall be twenty-five (25) feet. The side yard setback requirement includes and applies to main and accessory buildings and structures.
8. The minimum floor area for single-family dwelling shall be 840 square feet on the main (ground-level) floor of a one-story dwelling, a 1 ½ story dwelling, or a 2-story dwelling. (10-25-06)
9. Minimum rear yard setback per zoning lot shall be twenty-five (25) feet. The rear yard setback requirement includes and applies to main and accessory buildings and structures. In the case of a corner lot, the rear yard may be opposite either front yard, but there shall be only one rear yard.
10. On farms devoted to the housing or breeding of cattle, horses, swine, sheep or goats, no pens, corrals, or barns shall be closer than one-hundred (100) feet to any side property line or less than one-hundred fifty (150) feet to any existing public road right-of-way; provided further that the minimum side yard setback shall be reduced one (1) foot for each additional foot that the barn, pen, or corral is set back from the existing right-of-way over one-hundred fifty (150) feet; provided further that the side yard setback shall not be reduced below a minimum of fifty (50) feet.
11. No parcel created after the adoption of this Ordinance shall have a depth more than four (4) times the width.
12. Accessory buildings used exclusively for farm use are permitted to exceed the square footage of the principal dwelling. (10-24-05)
13. An accessory building used exclusively for farm use is permitted on a parcel in which there is no principal dwelling. (10-24-05)



**ARTICLE VII**  
**R-R, RECREATIONAL RESIDENTIAL DISTRICT**

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**Section 7.01 Statement of Purpose.**

This district is designed for the orderly development of areas bordering on or adjacent to publicly owned recreation lands and/or inland lakes of the County. The primary uses of these lands shall be for recreational or residential use with limited other compatible uses permitted. In addition to areas identified on the Mason County Zoning Map, the R-R District also encompasses an area within 300 feet of the edge of Oxbow Lake.

**Section 7.02 Principal Permitted Uses.**

In a Residential Single-family District, no building or land shall be used and no building shall be erected except for one or more of the following specified uses unless otherwise provided in this Ordinance:

1. Single-family detached dwellings.
2. Churches.
3. Roadside stands.
4. Schools.
5. Wireless communication antennas.
6. Public uses.
7. Temporary Outdoor Commercial Uses, if permitted by the Zoning Administrator under Section 3.36. (10-25-06)
8. Home occupations, if permitted by the Zoning Administrator under Section 3.10. (10-25-06)
9. On Site Use Wind Energy Systems. (5-30-08)
10. Accessory buildings and uses, customarily incidental to any of the above permitted uses.

**Section 7.03 Special Land Uses.**

The following Special Land Uses shall be permitted subject to review by the Planning Commission and further subject to any and all reasonable conditions which may be imposed in accordance with the Michigan Zoning Enabling Act; Article XVI, "Special Land Use Conditions, Review, and Approval," and Article XVIII, "Site Plan Review Procedures" of this Zoning Ordinance.

1. Two-family dwellings.
2. Multiple family dwellings.
3. Bed and breakfast operations.
4. ~~[Reserved].~~ Commercial Cottages or Cabins.
5. Home based businesses (10-24-06).
6. Veterinary clinics.
7. Cemeteries.

8. Adult foster care large group homes.
9. Group day care homes.
10. Funeral homes.
11. Airports.
12. Convalescent homes.
13. Recreational Vehicle Campsite Condominiums.
14. Clubs.
15. Clinics.
16. Cluster housing (refer to Section 3.21).
17. Hospitals.
18. Commercial or boarding kennels.
19. Outdoor recreation.
20. Farm markets. (10-25-06)
21. On Site Use Wind Energy Systems (over 66 feet). (5-30-08)
22. Accessory buildings and uses customarily incidental to any of the above uses.
23. Sand and gravel extraction operations.
24. Golf courses.
25. Golf course driving ranges.

#### **Section 7.04 Area and Size Requirements.**

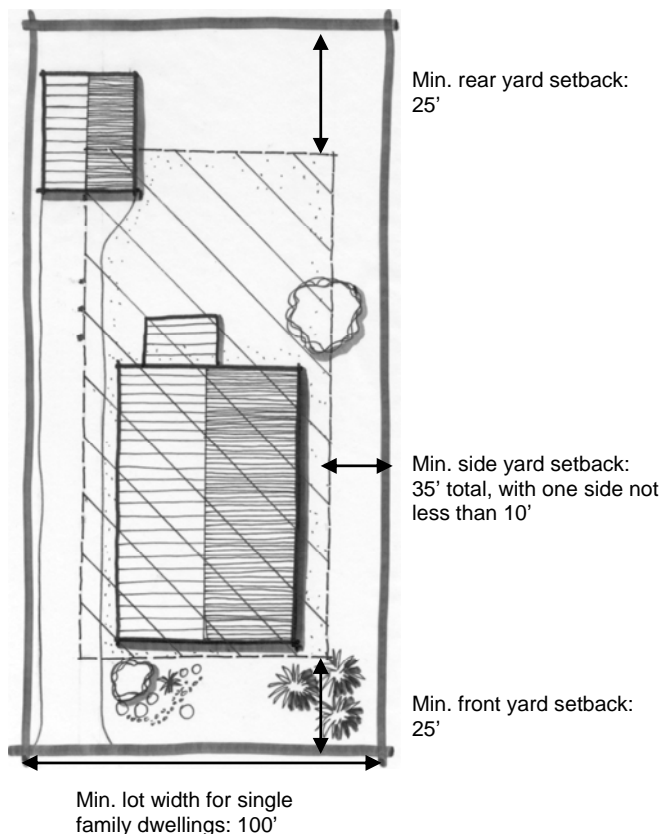
##### **1. Minimum Lot Size.**

- a. Fifteen-thousand (15,000) square feet for single-family dwellings, provided that existing separately owned, nonconforming lots and platted lots which are noncontiguous with other similar lots may be excepted from this restriction.
- b. Ten-thousand (10,000) square feet for two-family dwellings per unit.
- c. Fifteen thousand (15,000) square feet for all other special uses.

##### **2. Minimum Street Frontage.**

- a. One-hundred (100) feet for single-family dwellings.
- b. One-hundred and fifty (150) feet for two-family dwellings.
- c. One-hundred and fifty (150) feet for all other special uses.

3. Minimum front yard setback per zoning lot shall be twenty-five (25) feet. With the exception of fences, minimum front yard setback shall be measured from the edge of the abutting right-of-way of public roads, based upon information and standards set forth by the Mason County Road Commission, or from the edge of the abutting ingress/egress easement for private roads. All yards abutting upon a public or private road shall be considered as a front yard for setback purposes, except as may otherwise be required by this Ordinance.
4. The front yard setback requirement includes and applies to main and accessory buildings and structures. The required front yard setback shall not be used for off-street parking, loading, or unloading, and shall remain as open space unoccupied and unobstructed from the ground upward except for landscaping, plant materials, or vehicle access drives.
5. Minimum side yard setback per zoning lot shall be thirty-five (35) feet with one side not less than ten (10) feet. The side yard setback requirement includes and applies to main and accessory buildings and structures.
- 5a. Setback Reductions for Nonconforming Platted Lots. Side yards for nonconforming platted lots that do not meet the zoning district requirements 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 (10) feet measured to the eave of the building. All other setbacks shall conform to district regulations unless a variance is granted by the Zoning Board of Appeals. (5-30-08)
6. Maximum building height shall be two and one-half stories or thirty (30) feet, whichever is less. ~~Requirements relative to limiting height apply only to non farm residential structures, non farm residential accessory buildings, special land use structures, and special land use accessory buildings.~~
7. Minimum rear yard setback per zoning lot shall be twenty-five (25) feet. The rear yard setback requirement includes and applies to main and accessory buildings and structures. In the case of a corner lot, the rear yard may be opposite either front yard, but there shall be only one (1) rear yard.
8. The minimum floor area for single-family dwelling shall be 840 square feet on the main (ground-level) floor of a one-story dwelling, a 1 ½ story dwelling, or a 2-story dwelling. (10-25-06)



**ARTICLE VIII**  
**R, SINGLE-FAMILY RESIDENTIAL DISTRICT**

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**Section 8.01 Statement of Purpose.**

The R, Residential Single-family District is established as a district in which the principal use of land is for single-family dwellings. The specific intent is to encourage the construction of, and the continued use of the land for single-family dwellings; to discourage business, commercial, or industrial use of the land, and to prohibit any other use which would substantially interfere with development or continuation of single-family dwellings in the district; to not encourage the continuance of existing uses that would not be permitted as new uses under the provisions of this Ordinance; to discourage any land use which would generate traffic on local (minor) streets other than normal traffic to serve the residences on those streets; and to discourage any use which, because of its character or size, would create requirements and costs for public services, such as fire and police protection, water supply and sewerage, substantially in excess of such requirements and costs if the district were developed solely for single-family dwellings.

**Section 8.02 Principal Permitted Uses.**

In a Residential Single-family District, no building or land shall be used and no building shall be erected except for one or more of the following specified uses unless otherwise provided in this Ordinance:

1. Single-family detached dwellings.
2. Adult foster care large group homes.
3. Day care group homes.
4. Churches.
5. Schools.
6. Public uses.
7. Wireless communication antennas.
8. Accessory buildings and uses, customarily incidental to any of the above permitted uses.
9. Home occupations, if permitted by the Zoning Administrator under Section 3.10. (10-25-06)

**Section 8.03 Special Land Uses.**

The following Special Land Uses shall be permitted subject to review by the Planning Commission and further subject to any and all reasonable conditions which may be imposed in accordance with the Michigan Zoning Enabling Act; Article XVI, "Special Land Use Conditions, Review, and Approval," and Article XVIII, "Site Plan Review Procedures" of this Zoning Ordinance.

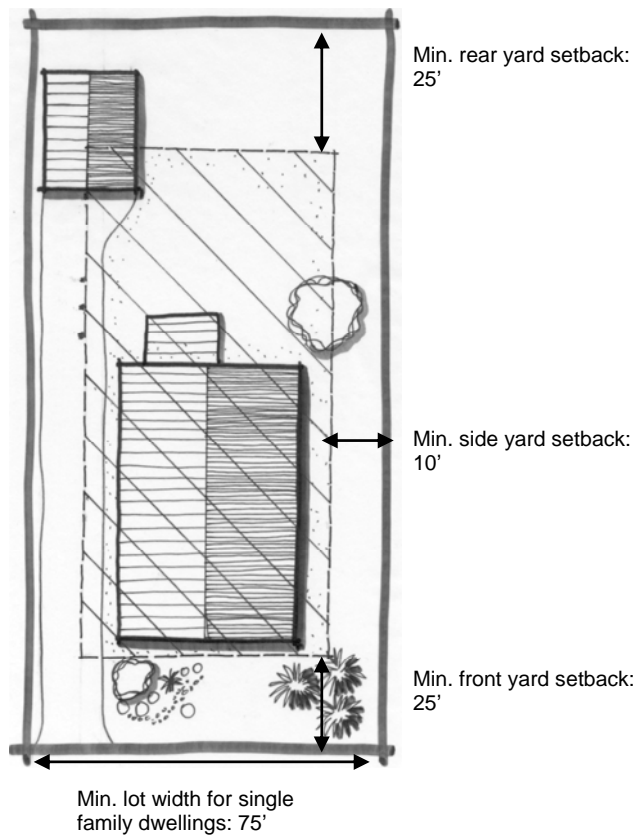
1. Two-family dwellings.
2. Multiple family dwellings.
3. Home based businesses. (10-25-06)
4. Convalescent homes.
5. Funeral homes.

6. ~~Office or studio of professional residing on premise.~~
7. Accessory buildings and uses customarily incidental to any of the above uses.
8. Golf courses.
9. Golf course driving ranges.

#### **Section 8.04 Area and Size Requirements.**

1. Minimum Lot Size.
  - a. Twelve-thousand (12,000) square feet for single-family dwellings, provided that existing separately owned, nonconforming lots and platted lots which are noncontiguous with other similar lots may be excepted from this restriction.
  - b. Seven-thousand five-hundred (7,500) square feet per dwelling unit for two-family or multi-family dwelling.
  - c. Fifteen-thousand (15,000) square feet for special uses.
2. Minimum Street Frontage.
  - a. Seventy-five (75) feet for single-family dwellings.
  - b. One-hundred (100) feet for two-family dwellings.
  - c. One-hundred and fifty (150) feet for all other special uses.
3. Minimum front yard setback per zoning lot shall be twenty-five (25) feet. With the exception of fences, the minimum front yard setback shall be measured from the edge of the abutting right-of-way of public roads, based upon information and standards set forth by the Mason County Road Commission, or from the edge of the abutting ingress/egress easement for private roads. All yards abutting upon a public or private road shall be considered as a front yard for setback purposes, except as may otherwise be required by this Ordinance.
4. Maximum ~~building dwelling~~ height shall be two and one-half stories or thirty (30) feet, whichever is less. Maximum height of accessory buildings shall be fifteen (15) feet.
5. Front yard setback requirement includes and applies to main and accessory buildings and structures. The required front yard setback shall not be used for off-street parking, loading, or unloading, and shall remain as open space unoccupied and unobstructed from the ground upward except for landscaping, plant materials, or vehicle access drives.
6. Minimum side yard setback per zoning lot shall be ten (10) feet. The side yard setback requirement includes and applies to main and accessory buildings and structures.
7. Minimum rear yard setback per zoning lot shall be twenty-five (25) feet. The rear yard setback requirement includes and applies to main and accessory buildings and structures. In the case of a corner lot, the rear yard may be opposite either front yard, but there shall be only one (1) rear yard.
8. On waterfront lots, no part of any structure other than one (1) boat dock may be within forty (40) feet of the high waterline..

9. The minimum floor area for single-family dwelling shall be 840 square feet on the main (ground-level) floor of a one-story dwelling, a 1 ½ story dwelling, or a 2-story dwelling. (10-25-06)



**ARTICLE IX  
MHP, MANUFACTURED HOME PARK DISTRICT**

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**Section 9.01 Statement of Purpose.**

The purpose of the Manufactured Home Park (MHP) District is to encourage a suitable environment for persons and families that, by preference, choose to live in a manufactured home rather than a conventional single-family structure. In keeping with the occupancy characteristics of contemporary manufactured homes, this article establishes low-density standards and permitted uses that reflect the needs of residents in the district. Development is limited to manufactured homes when located in a subdivision designed for that purpose or a manufactured home park with recreational facilities, churches, schools, and necessary public utility buildings. Given the mixed use nature of manufactured home parks, site plan approval by the Planning Commission shall be required.

**Section 9.02 Principal Permitted Uses.**

No building or structure, or part thereof shall be erected, altered, or used, and no land shall be used except for one or more of the following:

1. Manufactured home park, subject to the requirements of the Mobile Home Commission Act, Act 96 of 1987, as may be amended.
2. Accessory buildings and uses customarily incidental to any of the above permitted uses.
3. Home Occupation if permitted by the Zoning Administrator under Section 3.10.

**Section 9.03 Special Land Uses.**

The following Special Land Uses shall be permitted subject to review by the Planning Commission and further subject to any and all reasonable conditions which may be imposed in accordance with Section 16(b) of the County Zoning Act, as amended, Article XVI, "Special Land Use Conditions, Review, and Approval," and Article XVIII, "Site Plan Review Procedures" of this Zoning Ordinance.

1. Single family dwelling.
2. Accessory buildings and uses customarily incidental to any of the above uses.

**Section 9.04 Area and Size Requirements.**

1. The minimum size per zoning lot (not including public road right-of-way or private road easement) shall be fifteen (15) acres. Mobile home park developments are subject to the minimum requirements and standards as established in the Mobile Home Commission Act, Act 96 of 1987, and any and all rules and regulations promulgated pursuant to Act 96, as may be amended.
2. The minimum zoning lot width shall be subject to the minimum requirements and standards as established in the Mobile Home Commission Act, Act 96 of 1987, and any and all rules and regulations promulgated pursuant to Act 96, as may be amended.
3. The maximum building height shall be two and one-half stories or thirty (30) feet, whichever is less.
4. The maximum percent of building lot coverage and minimum yard setbacks shall be subject to the minimum requirements and standards as established in the Mobile Home Commission Act, Act 96 of 1987, and any and all rules and regulations promulgated pursuant to Act 96, as may be amended.



**ARTICLE X**  
**C-1, HIGHWAY COMMERCIAL DISTRICT**

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**Section 10.01 Statement of Purpose.**

The C-1, Highway Commercial District, as herein established, is designed to provide for the establishment of commercial and service activities which draw from and serve customers from the entire community or region and are located in areas which are well served by collector or arterial street facilities. These areas are meant to accommodate large-scale commercial operations, although small-scale establishments are also permitted. Highway Commercial areas are not intended to proliferate or expand beyond the areas already designated on the County Zoning Map, because they tend to have a harmful effect on neighboring properties and on rural character.

**Section 10.02 Principal Permitted Uses.**

No building or structure, or part thereof shall be erected, altered, or used, and no land shall be used except for one or more of the following:

1. Personal services establishment.
2. Vehicle sales totally within building.
3. Restaurant (without drive thru).
4. Retail sales.
5. Bank (without drive thru).
6. Indoor recreation.
7. Winery.
8. Clinic.
9. ~~Mini-storage warehouse.~~
10. Funeral home.
11. Professional office.
12. Public use.
13. Wireless communication antenna.
14. Temporary Outdoor Commercial Use, if permitted by the Zoning Administrator under Section 3.36. (10-25-06)
15. On Site Use Wind Energy Systems. (5-30-08)
16. Accessory structures and uses customarily incidental to the above permitted uses.
17. Assembly hall.

**Section 10.03 Special Land Uses.**

The following Special Land Uses shall be permitted subject to review by the Planning Commission and further subject to any and all reasonable conditions which may be imposed in accordance with the

Michigan Zoning Enabling Act; Article XVI, "Special Land Use Conditions, Review, and Approval," and Article XVIII, "Site Plan Review Procedures" of this Zoning Ordinance.

1. Open air business.
2. ~~Veterinary clinic.~~
3. Dirt bike track.
4. ~~Mud Bogging tracks.~~
5. Adult entertainment use.
6. Club.
7. Outdoor recreation.
8. ~~Radio/TV station.~~
9. Automobile service station.
10. ~~Non-Accessory signs.~~
11. Car wash.
12. ~~Drive-in/Drive-thru restaurants.~~
13. Drive in/drive thru establishment.
14. Motel.
15. Automobile repair garage.
16. General contractor yards.
17. Hospital.
18. Wireless Communication support facility.
19. Recycling (Light). (4-20-05)
20. Hotel. (10-24-05)
21. Truck Terminal or Distribution Center
22. Truck Trailer Drop Yard. (3-28-07)
23. On Site Use Wind Energy Systems (above 66 feet). (5-30-08)
24. ~~Schools. (7-23-08)~~
25. Accessory buildings and uses customarily incidental to any of the above uses.
26. ~~Automobile sales/storage.~~
27. Multi-family dwelling
28. Group day care home

#### Section 10.04 Area and Size Requirements.

1. The minimum net lot area and minimum lot width shall be one (1) acre with two hundred (200) feet of frontage. Maximum density for multi-family dwellings shall be fourteen (14) dwelling units to the acre.
2. The maximum building height shall be ~~two and one-half stories or thirty (30) feet~~ (3) three stories or forty five (45) feet, whichever is less.
3. Landscaping shall be construed to include areas devoted solely to pedestrian use and, unless for aesthetic purposes, shall not consist of any impervious ground cover with the exception of areas devoted to patios and parking. The minimum amount of land area devoted to landscaping shall be a function of land area occupied, as follows:

Land Area Occupied by Development	Percentage Landscaping Required
Less than 20,000 square feet	5.0 Percent
20,001 to 40,000 square feet	7.5 Percent
40,001 to 60,000 square feet	10.0 Percent
60,001 to 100,000 square feet	7.5 Percent
100,001 to 200,000 square feet	5.0 Percent
200,001 to 400,000 square feet	3.0 Percent
Over 400,000 square feet	2.0 Percent

4. The maximum building lot coverage shall be fifty (50) percent. Building lot coverage applies to all main and accessory buildings and structures, except that in-ground or at-grade structures are not deemed structures for computing maximum allowable building lot coverage.
5. The minimum front yard setback per zoning lot shall be fifty (50) feet. Minimum front yard setback shall be measured from the edge of the abutting right-of-way of public roads, based upon information and standards set forth by the Mason County Road Commission and or the Michigan Department of Transportation (MDOT). All yards abutting upon a public or private road shall be considered as a front yard for setback purposes, except as may otherwise be required by this Ordinance. No accessory building shall protrude beyond the required front yard setback. On a corner lot abutting a residential district, there shall be provided a front yard setback equal to the required front yard setback of the abutting residential zoning district.
6. Within the first thirty (30) feet of the required front setback parking, loading, unloading, and display areas shall be prohibited, with the exception of required driveways or access points. (1-1-08) Greenbelts shall be provided as per Section 3.13, except, a greenbelt shall be provided for any property, regardless of lot area, having frontage on US-10.
7. Side yard minimum setbacks per zoning lot shall be twenty-five (25) feet, except as required elsewhere in this subsection. Off-street parking shall be permitted in a required side yard setback when said side yard abuts a nonresidential district. Where a commercial district abuts a residential district, the minimum distance between a commercial structure and said common district line shall be twenty-five (25) feet and off-street parking shall be permitted to occupy the required side yard, provided there shall be maintained a minimum landscaped setback of twenty (20) feet between the nearest point of the off-street parking area, exclusive of access driveways, and the nearest point of the common district line.
  - b. Zero lot line option: New principal structures may be erected on one side lot line provided: (1-1-08)
    1. The building has an approved fire rating for zero-lot line development under the building code.

2. The building has adequate fire access preserved pursuant to fire code requirements.
  3. The zero lot line side is not adjacent to a street.
  4. A maintenance access easement is granted by the adjacent property owner and recorded with the County Register of Deeds and provided to the zoning administrator with the site plan or plot plan.
  5. The building is not adjacent to wetlands, or waterfront.
  6. The lot shall comply with district regulations in terms of size and frontage requirements.
8. Rear yard minimum setback per zoning lot shall be fifty (50) feet. In the case of a corner lot, the rear yard may be opposite either front yard, but there shall be only one rear yard. Where a commercial district abuts a residential district, the minimum distance between a commercial structure and said common district line shall be fifty (50) feet. Loading space shall be provided in the rear yard in accordance with Section 19.04. No outside storage shall be permitted.
  9. Off-street parking shall be permitted in a required rear yard setback when said rear yard abuts a nonresidential district. Where a commercial district abuts a residential district, off-street parking shall be permitted to occupy the required rear yard, provided there shall be maintained a minimum landscaped setback of twenty (20) feet between the nearest point of the off-street parking area, exclusive of access driveways, and the nearest point of the common district line.
  10. The maximum floor area ratio (F.A.R.) in the C-1 District is 0.5.

The formula for calculating the required F.A.R. is as follows:

$$\text{F.A.R.} = \frac{\text{Total floor area}}{\text{Total lot area}}$$

11. Sidewalks. Any request for site plan approval, including new construction or redevelopment, shall include a minimum six (6) foot sidewalk located outside of the greenbelt for the purpose of traversing the subject site from side lot line to side lot line. Sidewalks shall be constructed prior to certificate of occupancy, weather permitting, in which case, the applicant shall provide to the County a performance guarantee in accordance with section 18.09.
12. All new buildings shall connect to public water and sewer.

#### **Section 10.05 Access. (1-1-08)**

Properties within the Highway Overlay District shall comply with the standards of Article XXI. Access to properties not located within the Highway Overlay District shall meet the following standards:

1. Each parcel shall be limited to one access drive on a frontage road, unless a second access drive is shared with an adjacent parcel.
2. Access to a side road shall be required for parcels which are adjacent to a side road.
3. Access drives shall be spaced no less than two-hundred (200) feet from any street intersection or other access drive, and no less than seventy-five (75) feet from any residential zoning district boundary.
4. All access drives shall be located and constructed to conform to the requirements of the highway authority having jurisdiction over the adjacent streets or highways.
5. Adequate space shall be required on-site for vehicles which are required to wait.
6. The use of right-in/right-out intersections shall be reviewed by the Planning Commission and MDOT to ensure that such intersections are provided when the right-of-way is ample enough to develop and delineate the drive area and when such intersections are located in proximity to a signalized intersection and/or alternative means of ingress/egress.

**ARTICLE Xa**  
**C-2, NEIGHBORHOOD COMMERCIAL DISTRICT**

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**Section 10.01a Statement of Purpose.**

The C-2 District is intended to serve the business and service needs of the surrounding community and is not meant to draw from a regional service area. The C-2 District is designed to have a lower impact on adjacent properties than the C-1 District, and may be viewed as a transitional zoning district. Although most patrons of business establishments may arrive by automobile, developments will appear small in scale and the bulk of parking will be located to the side or rear of buildings.

**Section 10.02a Principal Permitted Uses.**

No building or structure, or part thereof shall be erected, altered, or used, and no land shall be used except for one or more of the following:

1. Accessory structures and uses customarily incidental to the above permitted uses.
2. Assembly hall.
3. Bank
4. Clinic.
5. Home Occupation
6. Personal service establishment.
7. Professional office.
8. Public use.
9. Restaurant (without drive thru).
10. Retail sales with a maximum permitted square footage of ten thousand (10,000) square feet.
11. Winery.

**Section 10.03a Special Land Uses.**

The following Special Land Uses shall be permitted subject to review by the Planning Commission and further subject to any and all reasonable conditions which may be imposed in accordance with the Michigan Zoning Enabling Act; Article XVI, "Special Land Use Conditions, Review, and Approval," and Article XVIII, "Site Plan Review Procedures" of this Zoning Ordinance.

1. Outdoor recreation.
2. Golf course or golf course driving range.
3. Funeral home.
4. School.
5. Multi-family dwelling

6. Church
7. Group Day Care Home
8. Adult Foster Care Group Home
9. Single Family Detached Dwelling
10. Mini-storage Warehouse
11. Open air business
12. Automobile repair garage
13. Automobile service station
14. Drive in/Drive thru establishment
15. General contractor yard
16. Home based business
17. Veterinary clinic
18. Retail Sales in Excessive of 10,000 square feet
19. Nursing Home
20. Convalescent Home

**Section 10.04a Area and Size Requirements.**

1. The minimum lot area shall be 20,000 square feet. Minimum lot width shall be two hundred (200) feet when fronting US 10/31 or one hundred (100) feet when fronting other roadways. Maximum density for multi-family dwellings shall be fourteen (14) dwelling units to the acre.
2. The maximum building height shall be two and one-half stories or thirty (30) feet, whichever is less.
3. Landscaping shall be construed to include areas devoted solely to pedestrian use and, unless for aesthetic purposes, shall not consist of any impervious ground cover with the exception of areas devoted to patios. The minimum amount of land area devoted to landscaping shall be a function of land area occupied, as follows:

<b><u>Land Area Occupied by Development</u></b>	<b><u>Percentage Landscaping Required</u></b>
<u>Less than 20,000 square feet</u>	<u>5.0 Percent</u>
<u>20,001 to 40,000 square feet</u>	<u>7.5 Percent</u>
<u>40,001 to 60,000 square feet</u>	<u>10.0 Percent</u>
<u>60,001 to 100,000 square feet</u>	<u>7.5 Percent</u>
<u>100,001 to 200,000 square feet</u>	<u>5.0 Percent</u>
<u>200,001 to 400,000 square feet</u>	<u>3.0 Percent</u>
<u>Over 400,000 square feet</u>	<u>2.0 Percent</u>

4. The maximum building lot coverage shall be fifty (50) percent. Building lot coverage applies to all main and accessory buildings and structures, except that in-ground or at-grade structures are not deemed structures for computing maximum allowable building lot coverage.

5. The minimum front yard setback per zoning lot shall be fifty (50) feet. Minimum front yard setback shall be measured from the edge of the abutting right-of-way of public roads, based upon information and standards set forth by the Mason County Road Commission and or the Michigan Department of Transportation (MDOT). All yards abutting upon a public or private road shall be considered as a front yard for setback purposes, except as may otherwise be required by this Ordinance. No accessory building shall protrude beyond the required front yard setback. On a corner lot abutting a residential district, there shall be provided a front yard setback equal to the required front yard setback of the abutting residential zoning district.
6. Within the first fifteen (15) feet of the required front setback parking, loading, unloading, and display areas shall be prohibited, with the exception of required driveways or access points. (1-1-08) Greenbelts shall be provided as per Section 3.13, except, a greenbelt shall be provided for any property, regardless of lot area, having frontage on US-10.
7. Side yard minimum setbacks per zoning lot shall be twenty-five (25) feet, except as required elsewhere in this subsection. Off-street parking shall be permitted in a required side yard setback when said side yard abuts a nonresidential district. Where a commercial district abuts a residential district, the minimum distance between a commercial structure and said common district line shall be twenty-five (25) feet and off-street parking shall be permitted to occupy the required side yard, provided there shall be maintained a minimum landscaped setback of twenty (20) feet between the nearest point of the off-street parking area, exclusive of access driveways, and the nearest point of the common district line.
  - a. Zero lot line option: New principal structures may be erected on one side lot line provided: (1-1-08)
    1. The building has an approved fire rating for zero-lot line development under the building code.
    2. The building has adequate fire access preserved pursuant to fire code requirements.
    3. The zero lot line side is not adjacent to a street.
    4. A maintenance access easement is granted by the adjacent property owner and recorded with the County Register of Deeds and provided to the zoning administrator with the site plan or plot plan.
    5. The building is not adjacent to wetlands, or waterfront.
    6. The lot shall comply with district regulations in terms of size and frontage requirements.
8. Rear yard minimum setback per zoning lot shall be thirty (30) feet. In the case of a corner lot, the rear yard may be opposite either front yard, but there shall be only one rear yard. Where a commercial district abuts a residential district, the minimum distance between a commercial structure and said common district line shall be thirty (30) feet. Loading space shall be provided in the rear yard in accordance with Section 19.04. No outside storage shall be permitted.
9. Off-street parking shall be permitted in a required rear yard setback when said rear yard abuts a nonresidential district. Where a commercial district abuts a residential district, off-street parking shall be permitted to occupy the required rear yard, provided there shall be maintained a minimum landscaped setback of twenty (20) feet between the nearest point of the off-street parking area, exclusive of access driveways, and the nearest point of the common district line.
10. All new buildings shall connect to public water and sewer.

#### **Section 10.05a Access.**

Properties within the Highway Overlay District shall comply with the standards of Article XXI. Access to properties not located within the Highway Overlay District shall meet the following standards:

1. Each parcel shall be limited to one access drive on a frontage road, unless a second access drive is shared with an adjacent parcel.

2. Access to a side road shall be required for parcels which are adjacent to a side road.
3. Access drives shall be spaced no less than two-hundred (200) feet from any street intersection or other access drive, and no less than seventy-five (75) feet from any residential zoning district boundary.
4. All access drives shall be located and constructed to conform to the requirements of the highway authority having jurisdiction over the adjacent streets or highways.
5. Adequate space shall be required on-site for vehicles which are required to wait.
6. The use of right-in/right-out intersections shall be reviewed by the Planning Commission and MDOT to ensure that such intersections are provided when the right-of-way is ample enough to develop and delineate the drive area and when such intersections are located in proximity to a signalized intersection and/or alternative means of ingress/egress.



**ARTICLE Xb**  
**C-3, MIXED-USE TRANSITIONAL DISTRICT**

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**Section 10.01b Statement of Purpose.**

It is expected that over time, and as the C-2 areas along US-10 are built out, that properties in the C-3 District will convert to non-residential uses. The C-3 District is not intended to be used for intense commercial uses, and residential uses will exist within these areas, as well. As such, commercial, office and business uses will employ the special use process to help ensure compatibility between residential and non-residential uses.

**Section 10.02b Principal Permitted Uses.**

No building or structure, or part thereof shall be erected, altered, or used, and no land shall be used except for one or more of the following:

1. Single-family detached dwelling
2. Two-family dwelling
3. Multiple-family dwelling
4. Public use
5. Church
6. Accessory structures and uses customarily incidental to the above permitted uses.
7. Home occupation
8. Outdoor recreation

**Section 10.03b Special Land Uses.**

The following Special Land Uses shall be permitted subject to review by the Planning Commission and further subject to any and all reasonable conditions which may be imposed in accordance with the Michigan Zoning Enabling Act; Article XVI, "Special Land Use Conditions, Review, and Approval," and Article XVIII, "Site Plan Review Procedures" of this Zoning Ordinance.

1. Personal service establishment
2. Clinic
3. Professional office
4. Convalescent home
5. Home based business
6. Group Day Care Home
7. Adult Foster Care Group Home
8. Nursing Home

**Section 10.04b Area and Size Requirements.**

1. The minimum lot area shall be 20,000 square feet. Minimum lot width shall be two hundred (200) feet when fronting US 10/31 or one hundred (100) feet when fronting other roadways. Maximum density for two-family and multi-family dwellings shall be fourteen (14) dwelling units to the acre.
2. The maximum building height shall be two and one-half stories or thirty (30) feet, whichever is less.
3. Landscaping shall be construed to include areas devoted solely to pedestrian use and, unless for aesthetic purposes, shall not consist of any impervious ground cover with the exception of areas devoted to patios. The minimum amount of land area devoted to landscaping shall be a function of land area occupied, as follows:

<b><u>Land Area Occupied by Development</u></b>	<b><u>Percentage Landscaping Required</u></b>
<u>Less than 20,000 square feet</u>	<u>5.0 Percent</u>
<u>20,001 to 40,000 square feet</u>	<u>7.5 Percent</u>
<u>40,001 to 60,000 square feet</u>	<u>10.0 Percent</u>
<u>60,001 to 100,000 square feet</u>	<u>7.5 Percent</u>
<u>100,001 to 200,000 square feet</u>	<u>5.0 Percent</u>
<u>200,001 to 400,000 square feet</u>	<u>3.0 Percent</u>
<u>Over 400,000 square feet</u>	<u>2.0 Percent</u>

4. The maximum building lot coverage shall be fifty (50) percent. Building lot coverage applies to all main and accessory buildings and structures, except that in-ground or at-grade structures are not deemed structures for computing maximum allowable building lot coverage.
5. The minimum front yard setback per zoning lot shall be fifty (50) feet. Minimum front yard setback shall be measured from the edge of the abutting right-of-way of public roads, based upon information and standards set forth by the Mason County Road Commission and or the Michigan Department of Transportation (MDOT). All yards abutting upon a public or private road shall be considered as a front yard for setback purposes, except as may otherwise be required by this Ordinance. No accessory building shall protrude beyond the required front yard setback. On a corner lot abutting a residential district, there shall be provided a front yard setback equal to the required front yard setback of the abutting residential zoning district.
6. Within the first thirty (30) feet of the required front setback parking, loading, unloading, and display areas shall be prohibited, with the exception of required driveways or access points. (1-1-08) Greenbelts shall be provided as per Section 3.13, except, a greenbelt shall be provided for any property, regardless of lot area, having frontage on US-10.
7. Side yard minimum setbacks per zoning lot shall be twenty-five (25) feet, except as required elsewhere in this subsection. Off-street parking shall be permitted in a required side yard setback when said side yard abuts a nonresidential district. Where a commercial district abuts a residential district, the minimum distance between a commercial structure and said common district line shall be twenty-five (25) feet and off-street parking shall be permitted to occupy the required side yard, provided there shall be maintained a minimum landscaped setback of twenty (20) feet between the nearest point of the off-street parking area, exclusive of access driveways, and the nearest point of the common district line.
8. Rear yard minimum setback per zoning lot shall be thirty (30) feet. In the case of a corner lot, the rear yard may be opposite either front yard, but there shall be only one rear yard. Where a commercial district abuts a residential district, the minimum distance between a commercial structure and said common district line shall be fifty (50) feet. Loading space shall be provided in the rear yard in accordance with Section 19.04. No outside storage shall be permitted.
9. Off-street parking shall be permitted in a required rear yard setback when said rear yard abuts a nonresidential district. Where a commercial district abuts a residential district, off-street parking shall be permitted to occupy the required rear yard, provided there shall be maintained a minimum

landscaped setback of twenty (20) feet between the nearest point of the off-street parking area, exclusive of access driveways, and the nearest point of the common district line.

#### **Section 10.05b Access.**

Properties within the Highway Overlay District shall comply with the standards of Article XXI. Access to properties not located within the Highway Overlay District shall meet the following standards:

1. Each parcel shall be limited to one access drive on a frontage road, unless a second access drive is shared with an adjacent parcel.
2. Access to a side road shall be required for parcels which are adjacent to a side road.
3. Access drives shall be spaced no less than two-hundred (200) feet from any street intersection or other access drive, and no less than seventy-five (75) feet from any residential zoning district boundary.
4. All access drives shall be located and constructed to conform to the requirements of the highway authority having jurisdiction over the adjacent streets or highways.
5. Adequate space shall be required on-site for vehicles which are required to wait.
6. The use of right-in/right-out intersections shall be reviewed by the Planning Commission and MDOT to ensure that such intersections are provided when the right-of-way is ample enough to develop and delineate the drive area and when such intersections are located in proximity to a signalized intersection and/or alternative means of ingress/egress.

## ARTICLE XI I, INDUSTRIAL DISTRICT

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### **Section 11.01 Statement of Purpose.**

The I, Industrial District is composed of those areas of the County whose principal use is or ought to be manufacturing and other industrial uses. This district has been located within the County to permit the development of these industrial uses, to protect adjacent agricultural, residential, and commercial areas against the encroachment of incompatible uses, and to lessen congestion on public streets and highways. To these ends, certain uses which would function more effectively in other districts and would interfere with the operation of these industrial activities and the purpose of this district, have been regulated as special land uses or excluded.

### **Section 11.02 Principal Permitted Uses.**

No building or structure or part thereof shall be erected, altered, or used; and no land shall be used except for one or more of the following:

1. ~~Light machining/fabricating.~~
2. ~~Ice cream/dairy plants.~~
3. ~~Boat, cabinet/furniture.~~
4. Automobile repair garage.
5. Research facilities.
6. Machine shops.
7. Contractor's equipment storage yards.
8. Public uses.
9. Truck Trailer Drop Yard (3-28-07)
10. On Site Use Wind Energy Systems. (5-30-08)
11. Retail sales when clearly incidental to the primary industrial use and where the area devoted to retail sales does not exceed fifteen (15) percent of the total floor area.
12. Professional Offices.
13. Accessory buildings and uses customarily incidental to any of the above permitted uses.
14. Warehouses.
15. Wireless Communication Antenna
16. Light Recycling

### **Section 11.03 Special Land Uses.**

The following Special Land Uses shall be permitted subject to review by the Planning Commission and further subject to any and all reasonable conditions which may be imposed in accordance with the

Michigan Zoning Enabling Act; Article XVI, "Special Land Use Conditions, Review, and Approval," and Article XVIII, "Site Plan Review Procedures" of this Zoning Ordinance.

1. Junk yards.
2. Incinerators.
3. ~~Blast furnaces.~~
4. Composting facilities.
5. ~~Non-Accessory signs.~~
6. ~~Steel furnaces.~~
7. ~~Manufacturing of corrosives.~~
8. ~~Petroleum production, storage/refining including natural gas.~~ Fuel storage or well.
9. ~~Smelting operations.~~
10. ~~Machine tools, metal cutting and grinding facilities.~~
11. ~~Chemical/plastic/pharmaceutical plants.~~
12. Wireless communication support facilities and antennas, ~~as regulated by Section 17.47.~~
13. Utility Grid Wind Energy Systems. (5-30-08)
14. Recycling (4-20-05)
15. On Site Use Wind Energy Systems (over 66 feet). (5-30-08)
16. Accessory buildings and uses customarily incidental to any of the above uses.
17. Sand and gravel extraction operations.
18. Sawmills, planing mills, wood product plants.
19. Manufacturing facilities.
20. Dry cleaning plant.
21. Mini-warehousing/self-storage.
22. Truck terminal or distribution centers.

#### **Section 11.04 Area and Size Requirements.**

1. The minimum zoning lot area (not including public road right-of-way or private road easement) and minimum lot width shall be determined on the basis of required off-street parking, loading, screening, and yard setbacks as provided herein for the respective uses. ~~; except that the minimum size per zoning lot of a platted industrial subdivision (not including public road right-of-way or private road easement) shall be a minimum of ten (10) acres.~~

2. Maximum building height shall be forty (40) feet. All structures permitted in the I-Industrial District may be erected in excess of forty (40) feet provided the front, side, and rear setbacks are increased one (1) foot for each foot above forty (40) feet.
3. Landscaping shall be construed to include areas devoted solely to pedestrian use and, unless for aesthetic purposes, shall not consist of any impervious ground cover with the exception of areas devoted to patios.
3. The minimum amount of land area devoted to landscaping shall be a function of the size of the industrial ~~commercial~~ development of land area occupied, as follows:

Land Area Occupied by Development	Percentage Landscaping Required
Less than 20,000 square feet	5.0 Percent
20,001 to 40,000 square feet	7.5 Percent
40,001 to 60,000 square feet	10.0 Percent
60,001 to 100,000 square feet	7.5 Percent
100,001 to 200,000 square feet	5.0 Percent
200,001 to 400,000 square feet	3.0 Percent
Over 400,000 square feet	2.0 Percent

5. The maximum building lot coverage shall be fifty (50) percent. Building lot coverage applies to all main and accessory buildings and structures, except that in-ground or at-grade structures are not deemed structures for computing maximum allowable building lot coverage.
6. The minimum front yard setback per zoning lot shall be sixty (60) feet. Minimum front yard setback shall be measured from the edge of the abutting right-of-way of public or private roads, based upon information and standards set forth by the Mason County Road Commission and/or the MDOT. All yards abutting upon a public or private road shall be considered as a front yard for setback purposes, except as may otherwise be required by this Ordinance. No accessory building shall project beyond the required front yard setback. On a corner lot abutting a residential district, there shall be provided a front yard setback equal to the required front yard setback of the abutting residential zoning district.
7. The required front yard setback shall not be used for off-street parking, loading, or unloading, and shall remain as open space unoccupied and unobstructed from the ground upward except for landscaping, plant materials, or vehicle access drives.
8. Side yard minimum setbacks per zoning lot shall be thirty (30) feet. Off-street parking shall be permitted in a required side yard setback when said side yard abuts a nonresidential district. Where an industrial district abuts a residential district, the minimum distance between an industrial structure and said common district line shall be fifty (50) feet and off-street parking shall be permitted to occupy the required side yard, provided there shall be maintained a minimum landscaped setback of twenty (20) feet between the nearest point of the off-street parking area, exclusive of access driveways, and the nearest point of the common district line.
9. Rear yard minimum setback per zoning lot shall be sixty (60) feet. In the case of a corner lot, the rear yard may be opposite either front yard, but there shall be only one rear yard. Where an industrial district abuts a residential district, the minimum distance between an industrial structure and said common district line shall be fifty (50) feet. Loading space shall be provided in the rear yard in accordance with Section 19.04. All outside storage shall be in the rear yard and shall be completely screened with an obscuring wall or fence not less than six (6) feet high or other screening as required by the Planning Commission.
10. Off-street parking shall be permitted in a required rear yard setback when said rear yard abuts a nonresidential district. Where an industrial district abuts a residential district, off-street parking shall be permitted to occupy the required rear yard, provided there shall be maintained a minimum

landscaped setback of twenty (20) feet between the nearest point of the off-street parking area, exclusive of access driveways, and the nearest point of the common district line.

11. There is no maximum floor area ratio in the I-Industrial District.

**ARTICLE XII**  
**NR, NATURAL RIVER DISTRICT**

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**Section 12.01                      Repeal of Natural Rivers District**

The Natural Rivers Zoning District within the Mason County Zoning Ordinance adopted, effective October 1, 2004, is hereby repealed effective simultaneous with the effective date of this amendment.

**Section 12.02                      Replacement of Natural Rivers District**

The district formerly known as "Natural Rivers district" will be replaced, simultaneous with the effective date of this amendment, with the contiguous zoning described in Article 4, Section 4.01 of the Mason County Zoning Ordinance. Any building within 400 feet from the sections of river formerly designated as "Natural Rivers" under the Mason County Zoning ordinance will have concurrent zoning with the State of Michigan Natural River Zoning (Part 305 of PA 451 of 1994) as defined by Appendix C- Department of Natural Resources Fisheries Division, Pere Marquette River Natural River Zoning.

The former "Natural River District" prior to April 20, 2005 is as follows: All that land in an area between the shoreline of the designated waters and a line four-hundred (400) feet from and parallel to the shoreline of said waters, except within incorporated limits.

All channels of the Pere Marquette River, including the mainstream and the Big South Branch, and the following tributaries:

- a. Swan Creek from Darr Road in Eden Township to its confluence with the Pere Marquette River;
- b. Weldon Creek from the outfall of Romeo Lake in Section 9, Branch Township to its confluence with the Pere Marquette;
- c. Ruby Creek from the Mason County Line, Section 34, Logan Township, to its confluence with the Big South Branch;
- d. Carr Creek excluding that portion of the stream which branches north in Section 14, Logan Township, from Mason-Lake boundary, Section 13, Branch Township, to its confluence with the Big South Branch.



**ARTICLE XIII**  
**GB, GREENBELT DISTRICT**

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**Section 13.01 Statement of Purpose.**

This district is designed to protect the shoreline and the land bordering on the main watercourses of Mason County from unwise use and from erosion, to maintain them as far as is practical in their native or natural state, to preserve the ecological balance, and to allow the maximum use and enjoyment of land and water in conformity with these objectives.

District GB is described as follows: All that land in an area between the shoreline of the below designated waters and a line three-hundred (300) feet from and parallel to the shoreline of said waters, except as being designated in some other district, or in an area not under the jurisdiction of this Ordinance.

1. The Little Manistee River in Meade Township.
2. The Big Sauble River in Grant, Freesoil, Meade, and Sheridan Townships.
3. The Lincoln River in Hamlin, Pere Marquette, Amber, and Victory Townships.
4. The North Branch of the Lincoln River in Victory Township and Sections 8, 9, and 18 of Sherman Township.
5. The South Branch of the Lincoln River in Victory Township and in Sections 28, 29, and 30 of Sherman Township.
6. Other streams and tributaries as designated on the County Zoning Map.

**Section 13.02 Principal Permitted Uses.**

No building or structure or part thereof shall be erected, altered, or used, and no land shall be used except for one or more of the following:

1. Single family dwellings.
2. Farming.
- ~~3. Office or studio of professional residing on premise.~~
4. Public uses.
5. Home occupations, if permitted by the Zoning Administrator under Section 3.10. (10-25-06)
6. On Site Use Wind Energy Systems. (5-30-08)
7. Accessory buildings and uses customarily incidental to any of the above permitted uses.

**Section 13.03 Special Land Uses.**

The following Special Land Uses shall be permitted in the GB Zoning District subject to review by the Planning Commission and further subject to any and all reasonable conditions which may be imposed in accordance with the Michigan Zoning Enabling Act; Article XVI, "Special Land Use Conditions, Review, and Approval;" and Article XVIII, "Site Plan Review Procedures" of this Zoning Ordinance.

1. Motels.
- ~~2. Marinas.~~
3. Outdoor recreation.
4. Retail sales stores.

5. Clubs.
6. Home based businesses. (10-25-06)
7. On Site Use Wind Energy Systems (over 66 feet). (5-30-08)
8. Accessory buildings and uses customarily incidental to any of the above uses.

#### **Section 13.04 Area and Size Requirements.**

1. Minimum Lot Size.
  - a. Twenty-thousand (20,000) square feet for single-family dwellings, provided that existing separately owned, nonconforming lots and platted lots which are noncontiguous with other similar lots may be excepted from this restriction.
2. Minimum Street Frontage.
  - a. One-hundred (100) feet for single-family dwellings.
  - b. One-hundred (100) feet for special uses.
3. Minimum rear yard setback per zoning lot shall be fifty (50) feet from the water's edge. In the case of a corner lot, the rear yard may be opposite either front yard, but there shall be only one rear yard. Rear yard setback requirement includes and applies to main and accessory buildings and structures.
4. The front yard setback requirement includes and applies to main and accessory buildings and structures. The required front yard setback shall not be used for off-street parking, loading, or unloading, and shall remain as open space unoccupied and unobstructed from the ground upward except for landscaping, plant materials, or vehicle access drives.
5. Maximum building height shall be two and one-half stories or thirty (30) feet, whichever is less.
6. Minimum side yard setback per zoning lot shall be twenty-five (25) feet. Side yard setback requirement includes and applies to main and accessory buildings and structures.
7. Minimum front yard setback per zoning lot shall be twenty-five (25) feet. With the exception of fences, minimum front yard setback shall be measured from the edge of the abutting right-of-way of public roads, based upon information and standards set forth by the Mason County Road Commission, or from the edge of the abutting ingress/egress easement for private roads. All yards abutting upon a public or private road shall be considered as a front yard for setback purposes, except as may otherwise be required by this Ordinance.
8. The minimum floor area for single-family dwelling shall be 840 square feet on the main (ground-level) floor of a one-story dwelling, a 1 ½ story dwelling, or a 2-story dwelling. (10-25-06)

#### **Section 13.05 Native Vegetation Strip.**

A strip fifty (50) feet wide bordering on each bank of the stream or other designated body of water, in this district, shall be maintained in trees or shrubs or in its natural state. Trees or shrubs in a space no more than fifty (50) feet in width may be trimmed or pruned for a view of the water or for a dock. There shall be no more than one such trimmed or pruned area per principal use.

### **Section 13.06 Flood Areas and Grade Level.**

No dwelling or principal structure shall be constructed on lands which are subject to flooding (within the fifty (50) year flood plain) or on land where a minimum of four (4) feet between finished grade level and high ground water level cannot be met. Land may be filled to meet these requirements only under the following conditions:

1. A special permit is obtained from the Planning Commission.
2. The fifty (50) foot native protection strip is maintained.
3. No fill material is allowed to enter the water either by erosion or by mechanical means.
4. Fill material is a pervious ~~previous~~ material such as sand or gravel.
5. No refuse, garbage, rubbish, or waste material shall be used as fill material.
6. All regulations of the Michigan Department of Environmental Quality are observed.

### **Section 13.07 Sanitary Waste and Subsoil Drainage Systems.**

1. Disposal field and septic tanks shall be no closer than one-hundred (100) feet from the water's edge.
2. No septic tank disposal field shall be nearer than forty (40) feet from any subsoil drainage system or footing drain emptying directly into the lake or stream.
3. Further regulation is provided by the Mason County Sanitarian.

## **ARTICLE XIV F, FORESTRY DISTRICT**

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### **Section 14.01 Statement of Purpose**

The F, Forestry District is designed primarily to provide opportunities for seasonal type development. Lands in this district are not typically served with the infrastructure necessary for more intense or year round development. The F, Forestry District is meant to assure long-term natural resource protection and low-impact recreational opportunities. Development within the Forestry District will require careful review to ensure that the integrity of environmental features and that the natural beauty of these zones are preserved for generations.

### **Section 14.02 Principal Permitted Uses**

No building or land shall be used and no building shall be erected except for one or more of the following specified uses unless otherwise provided in this Ordinance.

1. Forest management.
2. Outdoor recreation.
3. Forest Industry.
4. Home occupations, if permitted by the Zoning Administrator under Section 3.10. (10-25-06)
5. On Site Use Wind Energy Systems. (5-30-08)
6. Accessory buildings and uses customarily incidental to any of the above permitted uses.

### **Section 14.03 Special Land Uses**

The following Special Land Uses shall be permitted in the F, Forestry Zoning District subject to review by the Planning Commission and further subject to any and all reasonable conditions which may be imposed in accordance with the Michigan Zoning Enabling Act; Article XVI, "Special Land Use Conditions, Review, and Approval," and Article XVIII, "Site Plan Review Procedures" of this Zoning Ordinance.

1. Single family dwellings.
2. Multiple family dwellings.
3. Commercial Cottages or Cabins (seasonal).
4. Motels.
5. Home based businesses. (10-25-06)
6. On Site Use Wind Energy Systems (over 66 feet). (5-30-08)
7. Accessory buildings and uses customarily incidental to any of the above uses.
8. Mud bogging track.

### **Section 14.04 Area and Size Requirements.**

1. Minimum Lot Size.
  - a. One acre for single-family dwellings, provided that existing separately owned, nonconforming lots and platted lots which are noncontiguous with other similar lots may be “excepted” from this restriction.
2. Minimum Street Frontage.
  - a. One-hundred and fifty (150) feet for single-family dwellings.
3. Minimum front yard setback per zoning lot shall be fifty (50) feet. With the exception of fences, minimum front yard setback shall be measured from the edge of the abutting right-of-way of public roads, based upon information and standards set forth by the Mason County Road Commission, or from the edge of the abutting ingress/egress easement for private roads. All yards abutting upon a public or private road shall be considered as a front yard for setback purposes, except as may otherwise be required by this Ordinance.
4. Maximum building height shall be two and one-half stories or thirty (30) feet, whichever is less.
5. Front yard setback requirement includes and applies to main and accessory buildings and structures. The required front yard setback shall not be used for off-street parking, loading, or unloading, and shall remain as open space unoccupied and unobstructed from the ground upward except for landscaping, plant materials, or vehicle access drives.
6. Minimum side yard setback per zoning lot shall be twenty-five (25) feet. The side yard setback requirement includes and applies to main and accessory buildings and structures.
7. Minimum rear yard setback per zoning lot shall be twenty-five (25) feet. The rear yard setback requirement includes and applies to main and accessory buildings and structures. In the case of a corner lot, the rear yard may be opposite either front yard, but there shall be only one (1) rear yard.
8. The minimum floor area for single-family dwelling shall be 840 square feet on the main (ground-level) floor of a one-story dwelling, a 1 ½ story dwelling, or a 2-story dwelling. (10-25-06)

**ARTICLE XV**  
**AIRPORT ZONING OVERLAY ZONE**

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**Section 15.01 Intent.**

1. An Ordinance establishing airport zoning regulations restricting the height of structures and objects of natural growth and otherwise regulating the use of property in the vicinity of the Mason County Airport; providing for the allowance of variances from such regulations; designating the Zoning Administrator charged with the administration and enforcement of such regulations; authorizing an Airport Zoning Board of Appeals; providing for enforcement; and imposing penalties for violation of this Ordinance.
2. Pursuant to the authority conferred by the provisions of the Airport Zoning Act, being Act No. 23 of the Public Acts of the State of Michigan for the year 1950 (Extra Session), and for the purpose of promoting the health, safety, and general welfare of the inhabitants of Mason County by preventing the establishment of airport hazards and thereby protecting the general public, users of the Mason County Airport, and occupants of land in its vicinity, and preventing the destruction and impairment of the utility of said airports and the public investment therein.
3. The Mason County Board of Commissioners, under the provisions of Section 13 of Act No. 23 of the Public Acts of the State of Michigan for the year 1950 (Extra Session), does hereby ordain as follows:
4. Title.
  - a. This Ordinance includes all airport zoning plans attached hereto and is to be known and may be cited as the "Mason County Airport Zoning Ordinance."
5. Objective.
  - a. The principle objective of this Ordinance is to prevent the creation or establishment of airport hazards and thereby to provide additional safety and protection to the users of the airport and to the people who live and work in its vicinity.
6. Hazard Area.
  - a. The Ordinance establishes regulations on land within a ten (10) mile radius of the Mason County Airport (see attached Sheet 2). This Ordinance establishes a huge air bowl with a maximum height limitation of five-hundred (500) feet above the established elevation of the airport at the outer edge and has a minimum height limitation of twenty-five (25) feet above the ground at some locations in the approaches to the runways immediately adjacent to the airports. The height limitations of this Ordinance become less severe as the distance from the airports is increased.
7. Hazards.
  - a. Structures and trees which project above the height limitations under this Ordinance are considered hazards to flying and endanger lives and property. The prescribed height limits are not arbitrarily set, but are based on past experience and studies made by the Michigan Aeronautics Commission and by the Federal Aviation Administration. Height limits are based upon the established elevation of the airport or upon the elevation of the end of the nearest runway.
8. Existing Non-Conforming Objects.
  - a. The Ordinance does not affect existing structures, the height of which exceeded the limits imposed by this Ordinance at the time it became effective. New construction, and construction increasing the height of existing structures, within the hazard area, must conform to the provisions on height limitations. The Ordinance also restricts such uses of land within the vicinity

of the airport as will unreasonably interfere with radio communications systems, navigational aids, or other devices used by the airport and aircraft, or would reduce visibility, or would create confusing lights, or would be subject to undesirable effects that may be caused by the operation of aircraft.

9. Administration.

- a. The Zoning Administrator shall administer and enforce the provisions of the Ordinance and shall seek the close cooperation of and work through the local County, Township, and City Zoning Boards.

10. Heights Requiring Permits.

- a. The County Board hereby establishes application heights which are below the allowable height limits of the Ordinance. Without a permit issued by the airport zoning administrator, a person shall not construct a structure that is, or that increases the height of an existing structure, higher than the following:

1) All structures greater than Twenty-five (25) feet or higher **above ground level** within Area A as shown on sheet (3).

2) All structures greater than 746 feet **above mean sea level** in Area B as shown sheet (3).

3) All structures greater than 796 feet **above mean sea level** in Area C as shown on sheet (3).

4) All structures greater than 200 feet **above ground level** in Area D as shown on sheet (3).

11. Land-Use Types Requiring Permits.

- a. To promote the general purpose and objectives of this Ordinance and its effective administration, all persons making use of land within the areas shown on Sheets 7 and 8 of the Zoning Plans are required ~~advised~~ to consult the Land Use Guidance Charts as to undesirable land uses within designated airport land-use guidance zones.

12. Provisions for Variance.

- a. The Ordinance contains provisions for the variance of the regulations in event of practical difficulty or unnecessary hardship if the relief granted would not be contrary to the public interest and safety. It is the intent of the Administration and Zoning Administrator, with the cooperation of the public, to have the Ordinance administered in a reasonable and just manner in keeping with the responsibilities involved.

13. Where to Obtain Copies of this Ordinance

- a. Information regarding height limits and copies of the Ordinance are available at the offices of the Mason County Airport, or the Michigan Department of Transportation, 2700 East Airport Service Drive, Lansing, Michigan 48906. A copy of the Ordinance is on file with the County Clerk of Mason County and the Mason County Zoning Department.

**Section 15.02 Definitions.**

**Words and Phrases:** For the purposes of this Ordinance, the words, terms, and phrases set forth in Section 15.02 inclusive, shall have the meanings prescribed in those sections.

**Airport:** The term "Airport" means the Mason County Airport and all appurtenances used or acquired for airport buildings or other airport facilities, and all other appurtenant rights-of-way or other existing or future interests.

**Airport Hazard:** "Airport Hazard" means any structure or tree within the airport hazard area which exceeds the height limitations established by this Ordinance, or any use of land or appurtenances within

the airport hazard area which interferes with the safe use of the airport by aircraft.

**Airport Hazard Area:** The term "airport hazard area" means any area of land or water, or both, lying within a ten (10) mile radius from the established center of the Mason County Airport in which an airport hazard might exist if not prevented by this Ordinance.

**Airport Zoning Act:** The term "Airport Zoning Act" refers to Act No. 23 of the Public Acts of the State of Michigan for the year 1950 (Extra Session).

**Board:** The term "Board" means the Airport Zoning Board of Appeals as hereinafter created and designated below.

**Land-Use Guidance Zone:** The term "land-use guidance zone" means an area or district in which certain types of land uses are recommended due to safety, noise, vibrations, fumes, dust, fuel particles, light, and other effects that may be caused by the operation of aircraft landing at, or taking off from, or operating at the Mason County Airport.

**Above Mean Sea Level:** The term "above mean sea level" denotes elevations above sea level based upon and determined by reference to United States Coast and Geodetic Survey datum.

**Non-Conforming Use:** The term "non-conforming use" means any structure, tree, or use of land which does not conform to a regulation prescribed in this Ordinance or any amendment as of the effective date of such regulation.

**Person:** The term "person" means any individual, firm, partnership, corporation, company, association, joint stock association, municipal corporation, or other body politic, including any trustee, receiver, assignee, or other similar representative.

**Structure:** The term "structure" means any object constructed or installed by man, including but without limitation, buildings, towers, smokestacks, overhead transmission lines, and radio and television aerials and antennae, but not including highways and their appurtenances.

**Tree:** The term "tree" means any object of natural growth.

## **Section 15.03 Zones.**

### **1. Airport Hazard Areas.**

- a. An airport hazard area is established, which area or zone consists of all the lands within Mason County lying beneath the approach, transitional, one-hundred and forty-nine (149) feet horizontal, conical and five-hundred (500) feet horizontal surfaces, said land being located within a circle having a radius extending horizontally ten (10) miles (see attached Sheet 2) from the established center of the usable landing areas of the airport, known as the airport reference point. The boundaries of the hazard areas are shown on the Airport Zoning Plans numbered 1 through 8, which maps are attached and made a part of this Ordinance.

### **2. Airport Zoning Plans.**

- a. The height limitations shown on the attached Airport Zoning Plans are imposed on the lands in the airport hazard areas, the same being based upon the elevations above mean sea level at the ends of the respective airport runways and the established elevation of the airport, which elevations are shown on Sheets 1 through 6 of the Airport Zoning Plans.

### **3. Legal Height Limitations.**

- a. No person may erect or maintain any structure to a height in excess of the limitations prescribed by the terms of this Ordinance and the attached maps, or to plant or allow any tree to grow to a



height in excess of the limitations prescribed by the terms of this Ordinance and the attached maps; or to establish any use of lands contrary to the provisions of this Ordinance.

#### 4. Unlawful Land Use.

Notwithstanding any other provisions of this Ordinance, no person may use any lands within any Airport Hazard Area which:

- a. Would create electrical interference with radio communications between the airport and aircraft or create interference with navigational aids employed by aircraft;
- b. Would make it difficult for flyers to distinguish between airport lights and others or result in glare to the eyes of flyers using the airport;
- c. Would create air pollution in such amounts as to impair the visibility of flyers in the use of the airport;
- d. Would locate or permit the operation of a dump, waste disposal site, sanitary landfill, hazardous waste facility, solid waste transfer station, or recycling facility within ten-thousand (10,000) feet of any runway at the airport, unless the construction, location, and operation of the site is approved or authorized by the Federal Aviation Administration as not being in violation of its orders, rules, or regulations applicable to the airport, or unless a waiver is issued by the Federal Aviation Administration.
- e. Would otherwise endanger the landing, taking off, or maneuvering of aircraft;
- f. Would attract birds;
- g. Would raise the descent minimums of any instrument approach procedure to the airport, or otherwise limit operations at the airport, as determined by an airspace study conducted by the Federal Aviation Administration.

#### 5. Non-Conforming Existing Uses.

- a. The provisions of Section 3.3 of this Ordinance shall not apply to structures, trees, or other non-conforming uses existing in an airport hazard area on the effective date of this Ordinance, unless the Zoning Administrator determines it to be abandoned, or eighty (80) percent torn down, destroyed, deteriorated, or decayed. The definition of "abandon" shall be the same as that definition used by each respective local land use zoning agency.

#### 6. Alterations to Non-Conforming Land Use.

- a. The provisions of Section 3.3 of this Ordinance shall apply to changes or alterations which increase the height of existing structures, trees, or other non-conforming uses after the effective date of this Ordinance, with the same force and effect as though the same were new uses.

#### 7. Land-Use Guidance Zone.

- a. The purpose of Land-Use Guidance Zones as defined in Section 2.7, is to designate areas in which certain types of land uses are recommended due to undesirable effects that may be caused by the operation of aircraft. See the Land-Use Guidance Chart I, as shown on Sheets 7 and 8 of the Airport Zoning Plans, for recommended land uses.

### **Section 15.04 Ordinance Administration.**

#### 1. Approach Standards.

- a. The approach, transitional, conical, and inner horizontal surfaces which establish the height

limitations under this Ordinance are denoted on Sheets 1 through 6 of the Zoning Plans, and are established in conformance with approach standards or regulations of the Michigan Aeronautics Commission or the Federal Aviation Administration. In acting upon applications for permits, the Zoning Administrator will arrive at proper height limitations by interpolating between contours shown on the Zoning Plans.

2. Zoning Administrator as Administrative Agency.

- a. The Mason County Zoning Administrator is designated the Zoning Administrator charged with the duty of administering and enforcing this Ordinance. The Zoning Administrator shall act as the "administrative agency" referred to in the Airport Zoning Act. The duties of the Zoning Administrator shall include those of issuing permits as provided below, but the Zoning Administrator shall not have or exercise any of the powers or duties delegated to the Board of Appeals. The Airport Manager is granted sole authority to approve land uses on airport property in accordance with State and Federal guidelines. The Zoning Administrator may adopt such rules of procedure as may be necessary in connection with the administration and enforcement of this Ordinance.

3. Board of Appeals.

- a. The Mason County Zoning Board of Appeals, by concurring vote of a majority of its members, is hereby authorized to issue certificates of variance or to otherwise decide appeals from any order, requirement, rule, regulation, decision, or determination made by the Zoning Administrator.

**Section 15.05 Permits.**

1. Application for Permits.

- a. Applications for permits shall be made to the Zoning Administrator in three (3) copies upon forms furnished by the Zoning Administrator, and the Zoning Administrator shall, within 15 days from the application, determine whether the height limitations as designated by the Airport Zoning Maps and this Ordinance, would or would not be violated if the application were granted, and shall grant or deny the application accordingly (the Zoning Administrator not being vested with authority to permit a variance). The Zoning Administrator shall advise applicant of its action within three (3) days after the action has been taken. In the event of a denial, the applicant may apply to the Board of Appeals for a certificate of variance.

2. Permit Procedures.

- a. Persons desiring to create new uses, or to change existing uses, must file an application for a permit if the proposal involves objects that exceed twenty-five (25) feet within 6.32 miles of the airport or exceed one-hundred (100) feet between 6.32 miles and ten (10) miles from the airport or in any case where an object may be in violation of Section 3.4 or 3.7 of this Ordinance.

3. Exception for Emergency Repairs.

- a. No permit is required for the emergency repair or emergency replacement of nonconforming public utility structures, other than buildings, when the height of such structures will not be increased by such repairs or replacement. It is intended that in the application of this provision, any combination of circumstances calling for immediate action or remedy in the repair or replacement of such non-conforming public utility structures shall be deemed an emergency.

**Section 15.06 Judicial Action.**

1. Appeals to Circuit Court.

- a. Any person, including the Michigan Aeronautics Commission, in behalf of, and in the name of the

State, aggrieved by any decision of the Board of Appeals, may appeal to the Circuit Court of Mason County as provided in Section 30 of the Airport Zoning Act.

2. Penalties.

- a. Any person who violates this Ordinance or any regulations, orders, or rulings made pursuant to this Ordinance, shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than five-hundred (500) dollars or imprisoned for a term not to exceed ninety (90) days, or both. Each day a violation continues to exist after notice shall constitute a separate offense. Such notice may be given by the Zoning Administrator by certified mail, return receipt requested, addressed to the person maintaining the violation at the last known address.

3. Civil Action Available.

- a. The Mason County Prosecutor, on behalf of and in the name of the County may, in addition to any criminal action taken, institute in the Circuit Court of Mason County, an action to prevent, restrain, correct, or abate any violation of this Ordinance or the Airport Zoning Act, or of airport zoning regulations adopted under this Ordinance or under the Airport Zoning Act, or of any order or ruling made in connection with their administration or enforcement, and the Court shall adjudge to the plaintiff such relief, by way of injunction (which may be mandatory) or otherwise, as may be proper under all the facts and circumstances of the case, in order to effectuate fully the purposes of this Ordinance or the Airport Zoning Act and the regulations adopted and orders and rulings made pursuant thereto.

**Section 15.07 Federal Laws and Federal Aviation Regulations.**

1. Federal Laws (Part 77, 14 C.F.R. §77.1 *et seq.*).

The airport zoning ordinance is not intended to conflict with existing federal approach protection laws. The Federal Aviation Administration requires that it be given notice of any construction or alteration:

- a. That would be more than two-hundred (200) feet above ground level at its site.
- b. That would be above an imaginary surface extending outward and upward at 100:1 slope within twenty-thousand (20,000) feet of the nearest point of a runway more than three-thousand two-hundred (3200) feet in length. (10-24-05)
- c. That would be above an imaginary surface extending outward and upward at 50:1 slope within ten-thousand (10,000) feet of the nearest point of a runway less than three-thousand two-hundred (3200) feet in length. (10-24-05)

**ARTICLE XVI**  
**SPECIAL LAND USE CONDITIONS, REVIEW, AND APPROVAL**

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**Section 16.01 Statement of Purpose.**

1. It is the purpose of this Article to specify the procedure and requirements for the review of special land uses, as specified in this Ordinance. Uses classified as special land uses are recognized as possessing unique characteristics (relative to location, design, size, public infrastructure needs, and other similar characteristics) which require individual review and approval standards in order to safeguard the general health, safety, and welfare of the County.
2. The following use permit review procedures are instituted to provide an opportunity to use a lot or parcel for an activity which, under certain circumstances, might be detrimental to other permitted land uses and should not be permitted within the same district, but which use can be permitted under circumstances unique to the proposed location and subject to conditions acceptable to the community and providing protection to adjacent land uses. The procedures apply to those Special Land Uses which are specifically designated as such in the Zoning Ordinance.

**Section 16.02 Review and Approval Authority.**

The Planning Commission shall have the authority to approve special land use permits, subject to such conditions of design, operation, and appropriate and reasonable safeguards as the Commission may require for any special land use included in the various provisions of this Zoning Ordinance.

**Section 16.03 Data Required.**

1. Applications for Special Approval Land Uses authorized in this Ordinance shall be submitted to the Zoning Administrator. Applications shall include the appropriate number of copies of the site plan and the fees as established by the County Board of Commissioners. Applications will be processed according to the procedures adopted by the County.
2. The Zoning Administrator shall review the proposed application to determine if all required information has been supplied, and forward completed applications and supporting data in accordance with the provisions of this ordinance. If all required information is not supplied, the Zoning Administrator shall return the application to the applicant with a list of information needed.
3. An application for a special land use permit shall include the following:
  - a. Applicant's name, address, and telephone number.
  - b. Address and property tax identification number of the proposed site.
  - c. A signed statement that the applicant is the owner of the proposed site, or is acting as the owner's representative.
  - d. A complete site plan containing all the applicable data required by Article XVIII.
  - e. Supporting statements, evidence, data, information, and exhibits that address criteria for assessing special land use applications.
  - f. Any additional information deemed necessary for the Planning Commission to determine the impact of the proposed special land use on the adjacent properties, public infrastructure, and community as a whole. Such information may take the form of, but is not limited to, traffic impact analyses, environmental impact assessments, market studies (to determine demand, use saturation), fiscal impact analyses or reports and/or testimony by officials representing state, county or local departments of public safety (police and fire), health, highways or roads, and/or environment.

## Section 16.04 Review Process ~~Public Hearing Requirements.~~

### 1. ~~Public Hearing Notification Requirements:~~

- ~~a. One notice of the public hearing on an application for a special use permit shall be delivered and published in accordance with the requirements of Section 25.05 of this Ordinance. (10-25-06)~~
- ~~b. A notice of the public hearing shall be sent by mail or personal delivery to the owners of property for which approval is being considered, to all persons to whom real property is assessed within three hundred (300) feet of the boundary of the property in question, and to the occupants of all structures within three hundred (300) feet. The notice to such persons shall also be given not less than five (5), nor more than fifteen (15) days before the date the application will be considered. In calculating the required number of days, the day of publication and the day of the public hearing shall not be included.~~
- ~~c. If the name of the occupant is not known, the term "occupant" may be used in making notifications. Notification need not be given to more than one occupant of a structure, except that if a structure contains more than one dwelling unit or spatial area owned or leased by different individuals, partnerships, businesses, or organizations, one occupant of each unit or spatial area shall receive notice.~~
- ~~d. In the case of a single structure containing more than four (4) dwelling units or other distinct spatial areas owned or leased by different individuals, partnerships, businesses, or organizations, notice may be given to the manager or owner of the structure who shall be requested to post the notice at the primary entrance to the structure.~~
- ~~e. The public hearing notices shall:
  - ~~1.) Describe the nature of the special land use request.~~
  - ~~2.) Adequately describe the property in question.~~
  - ~~3.) State the date, time, and place of the public hearing.~~
  - ~~4.) Indicate when and where written comments concerning the request will be received.~~~~

1. Upon receipt of a complete application for a special use permit, the Planning Commission shall hold a public hearing in accordance with the notification requirements of the State law and Section 25.05 ~~the County's Zoning Ordinance~~. A complete application under this Section shall be one that addresses the items set forth in Section 16.03.

2. The Planning Commission shall review the proposal and base its decision upon review of the individual standards for that Special Approval Land Use and the general standards of this Article. The Planning Commission shall grant approval of the application with any conditions it may find necessary or it may disapprove the application. The decision on a Special Land Use shall be incorporated in a statement of conclusions relative to the Special Land Use under consideration. The decision shall specify the basis for the decision and conditions imposed.

- a. **Approval.** If the Planning Commission determines that the particular Special Approval Land Use(s) shall be allowed, it shall clearly set forth in writing the particular use(s) which have been allowed.

Thereafter, the Zoning Administrator may issue a zoning permit in conformity with the particular Special Approval Land Use so approved. In all cases where a particular Special Land Use has been granted as provided herein, application shall be made to obtain a zoning permit in the County not later than one year thereafter, or such approval shall automatically be revoked. The

Planning Commission may grant an extension thereof for good cause after receiving written request from the applicant.

- b. **Denial.** If the Planning Commission shall determine that the particular Special Approval Land Use(s) requested does not meet the standards of this Ordinance or otherwise will tend to be injurious to the public health, safety, welfare, or orderly development of the County, it shall deny the application in writing and clearly set for the reasons for such denial.
3. The Planning Commission may impose such conditions or limitations in granting approval as may be permitted by State law and this Ordinance which it deems necessary to fulfill the spirit and purpose of this Ordinance. The conditions may include:
  - a. Assurance that public services and facilities affected by a proposed land use or activity will be capable of accommodating increased service and facility loads caused by the land use or activity;
  - b. Protection of natural resources and conservation of energy;
  - c. Assurance of compatibility with adjacent uses of land;
  - d. Promotion of the beneficial use of land in a socially and economically desirable manner.
4. Special conditions imposed shall meet each of the following:
  - a. Be designed to protect natural resources, the health, safety, and welfare, as well as the social and economic well-being of those who will use the land use or activity under consideration, residents and landowners immediately adjacent to the proposed land use or activity, and the community as a whole.
  - b. Be related to the valid exercise of the police power and purposes, which are affected by the proposed use or activity.
  - c. Be necessary to meet the intent and purpose of the zoning regulations; be related to the standards established in this Ordinance for the land use or activity under consideration; and be necessary to ensure compliance with those standards.

The conditions imposed with respect to the approval of a land use or activity shall be recorded in the record of the approval action and shall remain unchanged except through an amendment process following the same procedure as the initial approval. The County Clerk shall maintain a record of changes granted in conditions.

5. Postpone: If the special land use application does not meet the requirements of the Zoning Ordinance, the Planning Commission may postpone action on the site plan to allow time for additional study and/or site plan revisions.
6. Appeals: Within twenty (20) days following the date of a decision on any Special Use Permit, an applicant or any aggrieved party, including any governmental body or agency, may appeal the decision of the County Planning Commission to the Board of Appeals. Upon the filing of an appeal, the application, all relevant documents and testimony, and the findings and decision of the County Planning Commission shall be transmitted to the Board of Appeals.

#### **Section 16.05 Standards for Approval.**

The Planning Commission shall review the particular circumstances and facts applicable to each proposed special land use in terms of the following standards and requirements and shall make a determination as to whether the use proposed and subject site meet all of the following standards and requirements. If it is determined that the proposed use does meet all of the following standards and requirements, the use shall be allowed. If it is determined that the proposed use does not meet all of the following requirements, the use shall not be allowed.

1. Will be in accordance with the goals and objectives of the Mason County Comprehensive Plan.
2. Will be designed, constructed, operated, and maintained in harmony with the existing or intended character of the general vicinity and that such a use will not change the essential character of the area in which it is proposed.
3. Will not be hazardous or disturbing to existing or future permitted uses in the same general vicinity and in the community as a whole.
4. Will be served adequately by essential public facilities and services, such as highways, streets, police and fire protection, storm water drainage, refuse disposal, water and sewage facilities, and schools or persons or agencies responsible for the establishment of the proposed use shall be able to provide adequately for such services.
5. Will not create excessive additional requirements at public cost for facilities and services and will not be detrimental to the economic welfare of the community.
6. Will not involve uses, activities, processes, materials and equipment, or conditions of operation that will be detrimental to any person, property, or general welfare by reason of excessive production of traffic, noise, vibration, smoke, fumes, glare, or odors.
7. Will ensure that the environment shall be preserved in its natural state, insofar as practicable, by minimizing tree and soil removal, adequate setback from water courses, and by topographic modifications which result in maximum harmony with adjacent areas.
8. Will not impede the normal and orderly development and improvement of surrounding property for uses permitted within the Zoning District.
9. Will comply with the requirements of this Ordinance, including Article 21, Access Management and Highway Overlay District. (10-24-05)

#### **Section 16.06 Issuance of a Zoning Permit.**

A zoning permit may be issued by the Zoning Administrator upon approval of the special land use by the Planning Commission. The zoning permit shall list all the conditions of approval stipulated by the Planning Commission.

#### **Section 16.07 Reapplication.**

No special land use application which has been denied wholly or in part by the Planning Commission shall be resubmitted until the expiration of twelve (12) months or more from the date of such denial, except on the grounds of newly discovered evidence or proof of changed conditions. A reapplication shall be processed in the same manner as the original application.

#### **Section 16.08 Site Plan Amendments in Conjunction with a Special Land Use.**

Any approved site plan shall become part of the record of special land use approval. Subsequent improvements relative to the authorized use shall be consistent with the approved site plan, unless a change conforming to this Ordinance receives the mutual agreement of the landowner and the Planning Commission. A site plan amendment shall be reviewed and considered in the same manner as the original site plan application, except as otherwise provided in this Ordinance.

#### **Section 16.09 Validity and Revocation of Special Land Use Permits.**

1. Validity of Permit: Once the special land use is established and the conditions of the permit fulfilled, the special land use permit shall be valid until such time that there is a change of conditions or use related to the permit as permitted by the Planning Commission. The Planning Commission reserves

the right to review, with the applicant and the County Zoning Administrator, the status of Special Use Permits on an annual basis.

2. Permit Revocation: The Planning Commission shall have the authority to revoke special land use approval following a hearing, if construction of the approved improvements does not proceed in conformance with the approved site plan. Upon discovery of a violation, the Zoning Administrator shall issue a stop work order and a notice to appear for a hearing before the Planning Commission. Notice of the hearing date shall be provided to the applicant no less than ten (10) days prior to the date of the hearing.

#### **Section 16.10 Amending a Special Land Use**

Amendments to a special land use permit shall be handled in the same manner as the initial special land use permit request. Minor non-substantive changes to a site plan in accordance with Section 18.06 may be made to a special land use permit with the approval of the Zoning Administrator.



**ARTICLE XVII**  
**SPECIAL LAND USE REQUIREMENTS**

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**Section 17.01 Adult Entertainment Uses**

It is recognized that there are some uses which, because of their very nature, are recognized as having serious objectionable operational characteristics, particularly when several such uses are concentrated under certain circumstances thereby having a deleterious effect upon the adjacent areas. Special regulation of these uses is necessary to ensure that these adverse affects will not contribute to the blighting or downgrading of property values of the surrounding neighborhood.

It is the intent and purpose of Mason County to adopt reasonable regulations for adult entertainment uses in the County, so as to minimize the adverse affects caused by this activity on the public health, safety, and welfare of persons and property within the County. Further, the purpose of the location requirements is to prevent crime, protect and preserve the quality of life in the County's retail trade, maintain property values, protect and preserve the quality of life in the County, preserve areas frequented by children from increased criminal activity and increased blight or other neighborhood deterioration, and prevent the blighting, downgrading, and deterioration of residential neighborhoods in commercial districts.

The operation or expansion of any and all adult entertainment uses, whether conducted as a separate business activity or in conjunction with another use, may be permitted as a special land use in the C, Commercial and only in conformance with the following restrictions:

1. No adult entertainment use shall be located within one-thousand (1,000) feet of any other adult entertainment use nor any of the following uses:
  - a. Pool or billiard halls.
  - b. Coin-operated amusement centers or video arcades.
  - c. Assembly hall.
  - d. Teenage discos or dance halls.
  - e. Ice or roller skating rinks.
  - f. Indoor or outdoor movie theaters.
  - g. Any public park, public playground, public library, or public building.
  - h. Any church, place of worship, or other religious facility.
  - i. Any public or private school having a curriculum including kindergarten or any one or more of the grades one (1) through twelve (12).
  - j. Any restaurant that does not serve alcohol.
  - k. Any preschool or day nursery.
  - l. Any indoor or outdoor public, private, or commercial recreational facility.
  - m. Uses like or similar to the above.
2. Such distance shall be measured along the centerline of the road between two (2) fixed points on the centerlines determined by projecting straight lines at right angles from the part of the above listed use

nearest to the contemplated location of the structure containing the adult entertainment use and from the contemplated location of the structure containing the adult entertainment use nearest to a use listed above.

3. No adult entertainment use shall be located within one-thousand (1000') feet of any single-family dwelling used or designed for residential purposes within the AG, Agricultural and RE, Rural Estate zoning districts or any area zoned residential (i.e., R-1, Single-family and MHP, Manufactured Home Park). Such required distances shall be measured by a straight line between a point on the boundary line of a zoned residential area nearest to the contemplated structure or contemplated location of the structure containing the adult entertainment use to a point on the contemplated structure or contemplated location of the structure containing the adult entertainment use nearest to the boundary lines of a zoned residential area.
4. All adult entertainment uses shall be contained in a free-standing building. Enclosed malls, commercial strip stores, common wall structures, and multi-uses within the same structure do not constitute a freestanding building.
5. No adult use shall be conducted in any manner that permits the observation of any material depicting, describing, or related to specified sexual activities or specified anatomical areas from any public way or from any property not regulated as an adult entertainment use. This provision shall apply to any display, decoration, sign, show window, or other opening.

#### **Section 17.02 Adult Foster Care Large Group Homes**

1. Section 206 of the Michigan Zoning Enabling Act states that a state licensed residential facility providing supervision or care or both to six or less persons shall be considered a residential use of property for the purposes of zoning and a permitted use in all residential zones, including those zoned for single-family dwellings, and shall not be subject to a special use or conditional use permit or procedure different from those required for other dwellings of similar density in the same zone. Section 206 further states that this shall not apply to adult foster care facilities licensed by a state agency for care and treatment of person released from or assigned to adult correctional institutions.
2. Adult foster care family homes and adult foster care small group homes for six (6) or fewer persons shall be permitted uses in all residential districts. Adult foster care large group homes with more than six (6) residents shall be required to apply for a special use permit.

The following are standards shall be applied to adult foster care large group homes:

- a. All ingress and egress to the site shall be directly from a hard-surfaced road.
- b. One (1) on-site parking space shall be provided for each employee in addition to the parking required for the dwelling unit or other accessory uses.
- c. A designated passenger loading/unloading area of adequate dimensions shall be provided near a barrier-free entrance to the facility.
- d. A loading/unloading area of adequate dimensions shall be provided for delivery vehicles servicing the facility.
- e. A landscaped buffer shall be provided along all property lines that abut a less intense use and around the visible perimeters of all parking and loading/unloading areas.
- f. All lighting shall be shielded from adjacent roads and residential districts.

#### **Section 17.03 Agribusiness Uses**

Agribusiness uses include the commercial production, processing, packaging or sale of fruit, vegetables, eggs, cider, and similar farm products. All uses are subject to the following requirements:

1. The maximum floor area of any building used for agribusiness sales shall be five-hundred (500) square feet.
2. All buildings shall have a front setback of at least fifty (50) feet from the edge of the proposed road right-of-way.
3. At least eighty (80) percent of all sales shall be farm products indigenous to Mason County.
4. Adequate trash receptacles shall be provided and shall be completely obscured from view by a screen fence or wall.
5. There shall be no more than two (2) freestanding or ground signs, neither sign to exceed sixteen (16) square feet of sign area.
6. All ingress and egress to the site shall comply with the applicable regulations of the County Road Commission or the Michigan Department of Transportation.
7. A minimum of five (5) off-street parking spaces shall be provided and shall be laid out in such a way that they can be safely and conveniently used by the customers. The Planning Commission shall determine the number of additional parking spaces necessary based on each individual use and the anticipated traffic that will be generated.

#### **Section 17.04 Agriculture Equipment/ Sales and or Service (~~Open Air Business~~)**

1. All ingress and egress to the site shall be directly from a hard-surfaced road.
2. The lot or area upon which new and/or used equipment is placed shall be hard-surfaced.
3. All ingress and egress to the site shall comply with the applicable regulations of the County Road Commission or the Michigan Department of Transportation.
4. No major repair or major refinishing to a vehicle shall be conducted on the subject site. All service and minor repair facilities shall be located within an enclosed building. Damaged vehicles and/or vehicles waiting for repair may be stored outside provided such storage area is screened by an obscuring wall six (6) feet in height. There shall be no outdoor storage of materials.
5. Lighting shall be located and designed to reflect away from adjacent residential districts.

#### **Section 17.05 Airports, Landing fields**

Airports, airfield, runways, aircraft storage, beacons, and other facilities involved with aircraft operations may be permitted subject to the approval by the Planning Commission upon a finding that the plans meet the requirements of this Ordinance and the following conditions:

1. Minimum area required for the airport shall not be less than one-hundred sixty (160) acres.
2. The area shall have its principal means of access to a hard-surfaced road.
3. Airports, airfields, runways, hangars, beacons, and other facilities involved with aircraft operations, subject to all rules and regulations of the Federal Aeronautics Administration, which agency shall approve the preliminary plans submitted to the County. (Land beneath all aircraft approach lanes, as established by appropriate aeronautical authorities, which is not part of the airport, shall be so developed as to not endanger safe flight conditions to and from an established airport. Permitted

height of buildings, structures, telephone and electrical lines and appurtenances thereto shall be established after consultation with the appropriate aeronautical agencies.)

4. Yard and Placement Requirements.
  - a. No building or structure or part thereof shall be erected closer than thirty (30) feet from any property line.
  - b. Those buildings to be used for servicing or maintenance shall not be located on the outer perimeter of the site where abutting property is zoned residential.

#### **Section 17.06 Automobile Sales, Storage**

1. All ingress and egress to the site shall be directly from a hard-surfaced road.
2. The lot or area shall be graded and drained as to dispose of all surface water accumulated within the area.
3. The lot or area upon which new and/or used automobiles, recreation vehicles, trucks, and trailers are placed shall be hard-surfaced.
4. All ingress and egress to the site shall comply with the applicable regulations of the County Road Commission or the Michigan Department of Transportation.
5. No major repair or major refinishing to a vehicle shall be conducted on the subject site. All service and minor repair facilities shall be located within an enclosed building. Damaged vehicles and/or vehicles waiting for repair may be stored outside provided such storage area is screened by an obscuring wall six (6) feet in height. There shall be no outdoor storage of materials.
6. Lighting shall be located and designed to reflect away from adjacent residential districts.

#### **Section 17.07 Automobile Service Stations**

1. No repair work shall be permitted, other than incidental service, including the addition of motor oil, windshield/wiper fluid, or transmission fluid.
2. No steam cleaning or undercoating shall be permitted.
3. Minimum lot area shall be fifteen-thousand (15,000) square feet for an automobile service station. For each additional accessory use such as, but not limited to, a fast-food restaurant, car wash, or convenience store, an additional five-thousand (5,000) square feet of lot area shall be provided. In no instance shall the percentage of building coverage on site exceed thirty-five (35) percent.
4. Ingress and egress to the facility shall only be from a hard-surfaced road or from an approved shared access drive to such roadway. Drives shall not be more than thirty (30) feet in width.
5. Not more than two (2) driveways onto adjacent roadways shall be permitted per road frontage. Curb cuts shall not be permitted where, in the opinion of the Planning Commission, it may produce a safety hazard to adjacent pedestrian or vehicular traffic.
6. No drive or curb opening shall be located nearer than twenty-five (25) feet to any intersection or adjacent residential property line, as measured along the property line. No drive shall be located nearer than thirty (30) feet, as measured along the property line, to any other drive on the premises. No drive shall be located less than thirty (30) feet from any lot line, as measured along the property line.

7. The entire lot, excluding the area occupied by buildings, shall be hard-surfaced with concrete or asphalt material, except landscaped areas which shall be separated from all paved areas by a low barrier or curb.
8. All lubrication equipment, motor vehicle washing equipment, and hydraulic hoists and pits shall be enclosed entirely within a building. All gasoline pumps shall be located not less than fifteen (15) feet from any lot line, and shall be arranged so that motor vehicles shall not be supplied with gasoline or serviced while parked upon or encroaching upon any public sidewalk, road, or right-of-way.
9. When adjoining residentially zoned property, a six (6) foot fence or wall shall be erected and maintained along the connecting interior lot line, or if separated by an alley, then along the alley lot line. All fences and walls shall be protected by a fixed curb or similar barrier to prevent contact by vehicles. Such walls may be eliminated or gradually stepped down in height within twenty-five (25) feet of any right-of-way line, subject to approval by the Zoning Administrator.
10. All outside storage areas for trash, auto parts, and similar items shall be enclosed by a six (6) foot ornamental fence or wall with such storage being located in the rear yard.
11. Any stored items may not be stacked higher than the enclosing wall height. Outside storage or parking of disabled, wrecked, or partially dismantled vehicles shall not be permitted for a period exceeding five (5) days.
12. The sale of new or used cars, trucks, trailers, and any other vehicles on the premises is expressly prohibited.
13. All lighting shall be shielded from adjacent roads and residential districts.
14. The site should be no less than two-hundred (200) feet from any place of public assembly, including any hospital, school, church, or other institution. Measurement shall be the closest distance between the pump islands and the exterior wall of the building used for public assembly.
15. There shall be no aboveground, outdoor storage/dispensing tanks on site.
16. The view of all restroom doors and/or service bay doors shall not be visible from adjacent residential districts.
17. A permanent covered structure shall be provided over that portion of the pump island and drive area of any station wherein customers are required to dispense fuel into their own vehicles on a self-service basis. Such structure shall not be enclosed by walls and shall be provided with a minimum clearance of thirteen (13) feet, six (6) inches between the underside of the roof structure and the drive surface. For purpose of this Ordinance, setback requirements shall not apply to canopies; however, in no instance shall they extend beyond the property line.
18. All off-street parking areas, maneuvering lanes, and paved surface areas shall be drained so as to preclude drainage of water onto adjacent property and public rights-of-way.
19. A minimum thirty (30) foot greenbelt, planted in accordance with the specifications of Section 3.13 shall be provided along all right-of-way lines bordering a hard-surfaced road.
20. Auto wash facilities, when established in connection with the principal use on the same zoning lot, shall comply with the following standards:
  - a. All washing activities must be carried on within an enclosed building.

- b. Vacuuming activities shall be at least fifty (50) feet distant from any adjoining residential zone. In no instance shall the weighted sound level from the vacuuming activity exceed 77dBA when measured at the property line.
  - c. The entrances and exits of the facility shall be from within the lot and not directly to or from an adjoining road or alley. A road or alley shall not be used as maneuvering or parking spaces for vehicles to be serviced by the subject facility.
  - d. Provision shall be made for the drying of the automobile's undercarriage during freezing weather prior to entering the public road for all automatic auto wash facilities. In addition, such auto washes must also install underground heating elements at each vehicle exit to prevent icing at grade.
  - e. There shall be provided no less than five (5) stacking spaces for each automatic wash lane.
  - f. Vehicle stacking spaces shall be clearly separated from pump islands and from routes necessary for entering and exiting the property, and in a manner which precludes pedestrians from traversing through such space.
21. Convenience stores and/or fast food restaurants, when established in connection with the principal use on the same zoning lot, shall comply with the following standards:
- a. Buildings shall be so arranged on site in a manner that screens any drive-through lanes from adjoining residentially zoned land.
  - b. Drive-through lanes shall be separated from pump islands and from routes necessary for entering and exiting the property.
  - c. Customer parking for convenience store and/or fast food use shall be located on the site in a manner which precludes pedestrians from traversing through drive-through lanes and off-street loading zones.
  - d. Loading zones shall be restricted to the rear or side yards.
  - e. There shall be provided no less than five (5) stacking spaces for the drive-through lane.
  - f. Food service areas shall be physically separated from vehicle repair and service facilities.
22. On-site parking shall equal the sum of the number of parking spaces required separately for each use.

#### **Section 17.08 Automobile Repair Garage**

1. Location Requirements:

- a. Ingress and egress to the facility shall be only from a hard-surfaced road or from a shared access drive to such road.
- b. No driveway or curb cut shall be located less than ten (10) feet from any lot line, measured from the edge of the driveway to the lot line.
- c. No more than two (2) driveways onto a roadway shall be permitted per site. Driveway approach width shall not exceed thirty (30) feet.

- d. The site shall be no less than two-hundred (200) feet from any place of public assembly, including any hospital, sanitarium, school, church or other institution. Measurement shall be the closest distance between exterior lot lines.

2. Site Requirements:

- a. In addition to the minimum lot size of the district, gasoline stations shall have an additional five-hundred (500) square feet of lot area for each pump over four (4), and one-thousand (1,000) additional square feet of lot area for each additional bay over two (2).
- b. The minimum lot width and frontage shall be two-hundred (200) feet.
- c. The entire area used for vehicle service shall be hard-surfaced and adequately drained.
- d. There shall be no above-ground outdoor storage/dispensing tanks on the site without leak proof secondary containment sufficient to accommodate one-hundred and twenty (120) percent of the volume of the tank.

3. Buffering Requirements:

- a. Greenbelts shall comply with the requirements of Section 3.13.
- b. Dumpsters shall be screened from adjacent properties by vegetation, landscaping, or fences.
- c. The view of all restroom doors shall be shielded from adjacent roads and residential districts.
- d. All lighting shall be shielded from adjacent roads and residential districts.

4. Performance Standards:

- a. Hydraulic hoists, service pits, lubricating, greasing, washing, and repair equipment and operations shall be located within a completely enclosed structure.
- b. Storage of vehicles rendered inoperative for any reason, and vehicles without current license plates and registration, shall be limited to a period of not more than thirty (30) days and then only for the purpose of temporary storage pending transfer to a junkyard. Such storage shall not occur in front of the building.
- c. Sales of new and used motorized vehicles shall not be permitted.
- d. No public address system shall be audible from any abutting residential parcel.
- e. All floor drains shall be connected to a public sanitary sewer system with the approval of the sewer authority or connected to an approved holding tank.
- f. All flammable liquids, solvents, cleaners, and other hazardous substances capable of contaminating groundwater shall be stored within the building and secondary containment measures shall be installed and utilized to prevent spilled materials from contacting the ground.
- g. All handling of flammable or hazardous substances shall be in accordance with state and federal laws and all required state and federal permits shall be obtained and the establishment shall remain in conformance therewith.

## **Section 17.09 Bed and Breakfast Operations**

### **1. Site Requirements:**

- a. A bed and breakfast operation shall provide off-street parking spaces in accordance with the requirements for a single-family dwelling plus one (1) space for each guest sleeping room. Off-street parking shall be located in a side or rear yard and shall be prohibited from being located in a front yard. Parking spaces shall be setback a minimum of fifteen (15) feet from any property line. The Planning Commission may require landscaping to screen required parking areas, if such areas are deemed to impact adjacent properties.
- b. The parcel on which the establishment is to operate must meet or exceed the minimum lot area requirements of the zoning district.

### **2. Performance Standards:**

- a. The bed and breakfast facility must be a single-family dwelling which is operated and occupied by the owner of the dwelling.
- b. The applicant shall provide a scaled floor plan of the premises as part of the special land use application.
- c. The exterior appearance of the structure shall not be altered from its single-family character.
- d. The impact of the bed and breakfast establishment on the neighborhood shall be no greater than that of a private home with weekend guests.
- e. One sign is permitted providing:
  - 1.) It is for identification purposes only.
  - 2.) It is not internally illuminated and does not exceed four (4) square feet.
  - 3.) It shall be mounted flush to the principal structure.
- f. No transient occupant shall reside on the premises for more than fourteen (14) consecutive days and not more than thirty (30) days in any one (1) year.
- g. No separate or additional kitchen facilities shall be provided for the guests.
- h. Retail sales are not permitted beyond those activities serving overnight patrons.
- i. Meals shall not be served to the public at large but only to guests.
- j. No receptions, private parties, or activities for which a fee is paid shall be permitted.
- k. Exterior solid waste facilities beyond what might normally be expected for a single-family dwelling shall be prohibited.
- l. A bed and breakfast operation shall have direct access to and from a public road and, in no case, shall such an operation have access to or from a private road.



- m. Bed and breakfast operations, including rooms for guest sleeping, shall be part of the principal place of residence of the owner. Rooms for guest sleeping shall not have been specifically constructed for rental purposes.
- n. Bed and breakfast operations may have up to four (4) sleeping rooms and an additional full bathroom facility for a third and/or fourth sleeping room.
- o. All sleeping rooms and living areas shall have a fully functional smoke detector approved by the County Building Inspector.
- p. A bed and breakfast operation shall provide a minimum of two (2) exits to the outdoors.

### **Section 17.10 Boarding Stables**

#### **1. Site Requirements:**

- a. Stables shall have a minimum lot size of ten (10) acres for the first seven (7) horses and an additional one-half acre for each horse thereafter.
- b. Commercial stables shall provide off-street parking at a minimum of one parking space per two (2) animals, based on the number of horse stalls or maximum number of horses that can be accommodated in the stable.

#### **2. Buffering Requirements:**

- a. Animals shall be confined in a suitably fenced area or paddock to prevent their approaching nearer than fifty (50) feet to any dwelling on adjacent premises.
- b. A vegetative strip of at least fifty (50) feet wide shall be maintained between any animal holding area, manure pile, or manure application area and any surface water or well head. In areas with slopes of over five (5) percent, the Planning Commission may increase setbacks in order to minimize runoff, prevent erosion, and promote quick nutrient absorption.

#### **3. Performance Standards:**

- a. All stables shall be operated in conformance with all applicable county, state, and federal regulations.
- b. All animals shall be maintained in a healthy condition and carefully handled.
- c. The facility shall be constructed and maintained so that dust and drainage from the stable will not create a nuisance or hazard to adjoining property or uses.
- d. Inspections of stables may be conducted at any time within reason by either the police authorities or by employees under the supervision of the Zoning Administrator. A review of inspections shall be made prior to special use permit renewal.
- e. Manure piles shall be stored, removed, and/or applied in accordance with Michigan Department of Agriculture and County Health Department regulations.
- f. A shelter shall be provided for all horses, including a separate stall for each horse which is at least ten (10) feet by ten (10) feet.
- g. Stables, corrals, and piles of manure or feed shall not be located nearer than two-hundred (200) feet to any lot line and one-hundred and fifty (150) feet from any right-of-way line.

- h. Enclosed riding arenas associated with commercial stables shall not exceed ten-thousand (10,000) square feet in gross floor area on a minimum of a ten (10) acre site, except that an additional one-thousand five-hundred (1,500) square feet of floor area may be permitted for each additional full acre in a lot area, provided that no riding arena shall exceed fifteen-thousand (15,000) square feet in gross floor area.
- i. Riding arenas are permitted providing they meet height and setback restrictions of the district and they do not exceed four-thousand five-hundred (4,500) square feet in gross floor area.
- j. No living quarters shall be located in any arena building.
- k. Special events for which a fee is paid, such as shows, exhibitions, and contests shall be permitted only after a temporary zoning permit has been secured.
- l. The Planning Commission may limit the number of horses and prescribe the manner of keeping the animals as necessary to prevent offensive odors, the pollution of water supplies, and/or the spread of infectious disease.

#### **Section 17.11 Reserved**

#### **Section 17.12 Campgrounds**

- 1. All campgrounds shall be used solely for the temporary placement of tents, travel trailers, and recreational vehicles and shall be developed in accordance with Act 368 of 1978 (Public Health Code), as may be amended and Administrative Rules and Regulations promulgated subsequent to the Act, as may be amended.
- 2. No year-round residency shall be permitted, except within a dwelling unit as herein defined.
- 3. No more than one (1) permanent dwelling unit shall be allowed in a campground which shall only be occupied by the owner, manager, or an employee.
- 4. The minimum area shall be twenty (20) acres.
- 5. A common use area shall be provided at a rate of five-hundred (500) square feet per campsite.
- 6. Each campsite shall have a picnic table and designated place for fires.
- 7. All campsites shall have a central water supply system with potable water under pressure located within three-hundred (300) feet.
- 8. Where a public water supply system is available within five-hundred (500) feet of any portion of the campground, the water supply system shall be connected thereto.
- 9. All campsites shall have a fire extinguisher or fire hydrant located within three-hundred (300) feet.
- 10. Separate toilet and bathing facilities shall be provided at a ratio of one facility per twenty (20) campsites for each sex and shall contain hot and cold water.
- 11. An enclosed toilet and sewage facility approved by the state and county health departments with hot and cold running water available therein shall be located within three hundred (300) feet of each campsite.

12. Where a public sewer is available within five-hundred (500) feet of any portion of the campground, the sewer system shall be connected thereto.
13. Each campground shall be provided with at least one (1) public telephone.
14. Sewer, water, fuel, electrical, and telephone installations and connections shall be in accordance with plans approved by the appropriate utility or public agency.
15. Access to all campsites shall be by means of a roadway suitably surfaced to prevent rutting and erosion for a minimum width of twenty (20) feet. Parking shall be prohibited on such roadways, except when an additional ten (10) feet of roadway is provided as a parking lane.
16. If a parking lane is not provided, an adequately sized parking stall (suitably surfaced to prevent rutting and erosion) shall be provided on each campsite. This provision may be modified for those sites designed for a more natural outdoor experience. In such case, an adequately sized off-roadway parking stall (suitably surfaced to prevent rutting and erosion) shall be provided for each such campsite at an alternate site on the property.
17. Each campsite shall be not less than one-thousand two-hundred (1,200) square feet in area.
18. The Planning Commission may vary the requirements of items 11, 12, and 13 to permit the development of a portion of the total campground for a less structured outdoor experience, except that not more than fifteen (15) percent of the total area allocated to campsites may be so varied.
19. No building, structure, accessory use, or campsite shall be located closer than one-hundred fifty (150) feet to any property line.
20. Fences and/or greenbelts may be required when recommended by the Planning Commission.
21. No business of any kind shall be conducted on the premises, except for a store selling items customarily incidental to camping.

### **Section 17.13 Car Wash**

1. All ingress and egress to the site shall be directly from a hard-surfaced road.
2. Minimum lot size shall be ten-thousand (10,000) square feet.
3. All washing activities must be carried on within a building.
4. Vacuuming activities shall be at least fifty (50) feet distant from any adjoining residential zone.
5. The entrances and exits of the facility shall be from within the lot and not directly to or from an adjoining road. A road shall not be used as maneuvering or parking spaces for vehicles to be serviced by the subject facility.
6. Provision shall be made for the drying of the automobiles undercarriage during subfreezing weather prior to entering the public road.
7. There shall be provided two (2) vehicle stacking spaces for each self-serve wash stall, not containing the vehicle wash or vacuum area.
8. There shall be provided fifteen (15) stacking spaces for each automatic wash lane.
9. All off-street parking areas and maneuvering lanes shall be drained so as to preclude drainage of water onto adjacent property and public rights-of-way.

#### **Section 17.14 Cemetery**

1. The minimum lot or parcel size shall be ~~20~~ two (2) acres.
2. No more than five (5) percent of the site area may be occupied by buildings.
3. All ingress and egress shall be directly from a hard-surfaced road or from an approved shared access drive to such road.
4. All burial plots and all structures, including but not limited to, a mausoleum shall be set back no less than ~~two-hundred (200)~~ fifty (50) feet from any lot line or road right-of-way.
5. Adequate parking shall be provided on the site and shall be setback at least fifty (50) feet from any lot line, and no cemetery parking shall be permitted on any public road.
6. Buffering requirements: A greenbelt, as required by the Planning Commission, shall be constructed around the perimeter of the cemetery.
7. Performance Standards: All facilities for the ground burial area of the site shall be designed and constructed in accordance with the requirements of the Mason County Health Department and the State of Michigan.

#### **Section 17.15 Clinic**

1. Clinics shall be designed and maintained in a manner consistent with the character of the surrounding neighborhood.
2. The Planning Commission may establish limitations on hours of operation to help ensure the facility is harmonious with adjacent land uses.
3. The proposed site shall have one (1) property line abutting a hard surface street and the site shall be so planned as to provide ingress and egress directly from said street.
4. Any dumpsters on the site shall be screened on four sides by an opaque enclosure at least 6 feet in height equipped with a lockable gate so the dumpster is not visible from any lot line.

#### **Section 17.16 Clubs**

1. All ingress and egress for the site shall be from a hard-surfaced street or from an approved, shared access drive to such street.
2. No more than twenty-five (25) percent of the site area shall be covered by buildings. No more than sixty (60) percent of the site shall be covered by impervious surface.
3. No building shall be erected to a height greater than that permitted in the district in which it is located unless the building is set back an additional one (1) foot from the initial one-hundred and fifty (150) feet for each one (1) foot of additional height above the district height limitation.
4. Any yard or open space shall be landscaped.
5. Buffering Requirements: Parking areas shall be screened from adjacent residential areas pursuant to Section 3.13 and Article XIX.

#### **Section 17.17 Composting Facilities**

1. Size and Location.

- a. The minimum size of a composting facility shall be eighty (80) acres.
- b. A Level I Environmental Assessment of the site shall be conducted prior to site plan review:

There are several phases to a site environmental assessment. The first phase is called a Level I Environmental site assessment. During this phase, a team of scientists walks the site in a systematic grid pattern to visually inspect for signs of adverse environmental activity. This includes a search for stressed vegetation, strained geologic structures, obvious placement of fill/debris, or the excavation of earth. Aerial photographs are reviewed from a historical perspective over the last few decades. Property ownership records and permit activities from the regulating agencies are researched and reviewed. Also, selected neighboring landowners are interviewed for their knowledge of any activity on the site. Based upon the site inspection and data review, a chronological description of activity on the site can be established.

- c. A composting facility shall not be allowed in any one-hundred (100) year or five-hundred (500) year floodplain unless the Michigan Department of Environmental Quality (MDEQ) has approved the area of operations. A sign-off from the MDEQ stating where composting operations will be allowed in the floodplain shall be necessary before site plan review.
- d. A composting facility shall not be allowed in any protected wetlands. A wetlands determination shall be made by the MDEQ prior to site plan review.

2. Ground and Surface Water Quality.

- a. To ensure that ground or surface waters are not contaminated, monitoring wells must be installed by the owner/operator and/or lessee on site prior to construction of the composting facility. The location of such wells shall be determined on a site by site basis, subject to review and approval by a professional acceptable to the County. All review costs shall be assumed by owner/operator and/or lessee.
- b. If any stream or swale is present on the site, it shall be ensured by the applicant that no materials drain either directly or indirectly into said waterway. This shall be accomplished via adequate buffering and/or grading. Approval from the designated agent responsible for the enforcement of the Soil Erosion Control Act shall be required ensuring the stream is adequately protected from pollution.
- c. The surface and ground waters at a composting facility shall comply with the water quality requirements of Act 245 of Public Acts of 1929, as amended, being Section 323.1 et. seq. of the Michigan Compiled Laws and the State Administrative Rules promulgated thereunder, being Section 323.1001 et. seq. of the Michigan Administrative Code.
- d. Sampling of groundwater monitoring wells must start before operations begin, continue quarterly during the active life of operations, and quarterly for a two-year period after operations cease for compliance with Act 255 of Public Acts of 1929, as amended. The monitoring shall be done by a professional acceptable to the County. All costs for such monitoring shall be assumed by owner/operator and/or lessee.
- e. Should test wells reveal violation of the water quality requirements of Act 245 of Public Acts of 1929, as amended, the petitioner shall be required to install a groundwater remediation system. The system shall be subject to review and approval by a professional acceptable to the County. All costs shall be assumed by owner/operator and/or lessee.

- f. Surface water monitoring shall be also required in addition to groundwater monitoring to assess the adequacy of leachate containment and runoff control and for compliance with Act 255 of Public Act of 1929, as amended. Such monitoring shall be required quarterly. The monitoring shall be done by a professional acceptable to the County. All costs for such monitoring shall be assumed by the owner/operator and/or lessee.
- g. Analysis for all ground and surface water monitoring events shall be submitted to the County within sixty (60) days after analyses.
- h. Discharge of water collected in an on-site retention basin shall only be handled in the following ways:
  - 1.) Reintroduced into the compost pile.
  - 2.) Directed into a sanitary sewer.
  - 3.) Transported by a liquid industrial waste hauler.

### 3. Composting Facilities.

This section establishes the requirements and procedures for operation of composting facilities for all facilities to be operated in Mason County.

- a. All composting facilities shall submit to the Mason County Planning Commission for approval, as part of the site plan review, the following:
  - 1.) Site plans sealed by a professional engineer including:
    - a.) A vicinity map and legal description.
    - b.) Distances to the nearest adjacent residence and commercial and industrial facilities.
    - c.) Proposed interior and exterior storage areas. Interior storage facilities shall be identified as a "support services facility."
    - d.) Utility locations including storm and sanitary sewers and water mains.
    - e.) Fire hydrant locations.
    - f.) Access route traffic patterns as well as on-site traffic patterns.
    - g.) All visual screening measures.
    - h.) Drainage patterns. Property used for a composting facility shall contain a minimum 2% - 3% slope which permits surface water runoff from the composting process to be collected in an on-site retention basin.
  - 2.) Written documentation addressing the following:
    - a.) Hours of operation.
    - b.) Methods of controlling fugitive dust, noxious odors, noise, vibration, light, and blowing debris.
    - c.) Fencing and other means of limiting access.
    - d.) Method of receiving compost materials.

- e.) Method of sorting and handling composting materials on-site.
  - f.) Measures to be taken should anaerobic conditions arise.
  - g.) Expected frequency of removal of composted materials.
  - h.) Expected frequency for turning of composting windrows.
  - i.) Fire protection.
  - j.) Description of daily cleanup procedures.
  - k.) Measures to be taken should surface or groundwater contamination take place.
  - l.) The capacity of the composting facility in terms of cubic yards, and the maximum amount of compost material to be accepted annually.
  - m.) Maintenance Plan for all outdoor areas where compost materials are received, processed, cured, or stored to prevent rutting which allows on-site ponding/puddling of water in places other than a retention basin.
- b. All facilities covered under this section must notify the Mason County Zoning Administrator and the Mason County Health Department that actual operations have begun.
  - c. The site shall be closed when anaerobic conditions arise, and the only operations taking place must be concerned with correcting conditions. If anaerobic conditions arise more than two (2) times in a one (1) month period, the facility must: a) pay a fine-set by County Board of Commissioners; and, b) close for a one (1) month period of time. After three (3) one-month closures in a year, the County may order the site to be closed permanently subject to provisions of this section. Also, corrective actions must begin immediately upon determination of anaerobic conditions. Determination of anaerobic conditions may be made by the County Zoning Administrator.
  - d. Compost materials shall not be accepted on site in an anaerobic condition.
4. Setback Requirements.
- In no case shall a composting facility be located within one thousand two-hundred (1,200) feet of an existing residential district lot line, nor within one-thousand five-hundred (1,500) feet of the nearest existing residential dwelling in other zoning districts. The isolation distance shall be measured from the beginning of the program area designated to the composting facility to the residential lot line in residential districts. In other zoning districts, the isolation distance shall be measured from the beginning of the program area designated to the composting facility to the existing residence.
5. Landscaping Requirements.
- If a residence is within one-thousand two-hundred (1,200) feet to two-thousand two-hundred and fifty (2,250) feet of a composting facility, or if the facility fronts on a public street, a greenbelt selected by the Planning Commission shall be constructed around the perimeter.
6. Off-Site Street Maintenance.
- a. This section is enacted to assure that tracking of mud and/or compost materials from composting areas onto public off-site streets will be minimized and to assure that mud and/or compost materials which are tracked off-site are adequately removed.

- b. At the time of site plan approval, the operator of the composting facility shall submit an Off-Site Street Maintenance Plan which addresses, at a minimum, the following:
  - 1.) Method of dislodging mud and/or composting materials from the vehicles or undercarriage.
  - 2.) An on-site traffic control pattern, including a by-pass road around the truck cleaning area if applicable.
  - 3.) Method for removing soil, dust, and/or compost materials attributable to the composting operations from public off-site streets within two-thousand five-hundred (2,500) feet of the composting area entrance and exits.
  - 4.) Trucks and off-site streets shall be cleaned as often as necessary to prevent the occurrence of nuisances resulting from the tracking of mud and/or compost materials.

7. Fugitive Dust, Noxious Odors, Noise, Vibration, Light, and Blowing Debris.

- a. The operation of a composting facility shall not result in unreasonable off-site deterioration of air quality, cause unreasonable interference with the comfortable enjoyment of life and property, or cause injurious effects to human health, safety, and welfare. All compost facilities shall be designed, constructed and operated so that fugitive dust, noxious odors, noise, vibration, light, and blowing debris are controlled and do not cause off-site problems or nuisances.
- b. The following performance standards shall be enacted in an effort to control noxious odors, noise, vibration, and light so that they do not cause off-site problems and nuisances:

1.) Odors.

- a.) The emission of noxious odors, odorous matter in such quantities as to be readily detectable at any point along lot lines, when diluted in the ratio of one volume of odorous air to produce a public nuisance or hazard beyond lot lines, is prohibited.
- b.) All water used by the composting facility shall be drawn from streams, wells, ponds, or the municipal supply, and be otherwise free from sulfur or agents which will cause odor.

- 2.) Noise. The pressure level of sounds shall not exceed the following decibel levels when adjacent to the following types of uses:

<b>SOUNDLEVEL ADJACENT USE</b>	<b>WHERE MEASURED</b>
65dBA Residential/Agricultural	Boundary Property Line*
75dBA Commercial/Office	Boundary Property Line
80dBA Industrial/Other	Boundary Property Line

\*Except if normal street traffic noise levels exceed sixty-five (65) decibels, the use noise level may equal but not exceed the traffic noise level.

The sound levels shall be measured using a weighted decibel measurement and with a type of audio out meter approved by the National Institute of Standards and Technology. Objectionable noise as determined by the Board, of an intermittent nature, or high frequency sounds, even if falling below the aforementioned decibel readings, shall be muffled so as not to become a nuisance to adjacent uses.



- 3.) Vibration. All machinery shall be so mounted and operated as to prevent transmission of ground vibration exceeding a displacement of 0.003 inches as measured at any property line of its source.
  - 4.) Light. All lighting shall be shielded from adjacent streets and residential districts.
  - c. The applicant shall submit with the site plan an operations plan to minimize the off-site occurrences of fugitive dust, noxious odors, vibrations, light, and blowing debris. This plan may include such measures as: restricting the daily work area, refusing to accept certain compost materials, or other appropriate measures. This plan shall be approved by the Planning Commission.
  - d. If there is evidence that performance standards have not been met and/or that a problem or nuisance condition exists as determined by the Zoning Administrator, despite compliance with the operation plan, then a contingency plan shall be developed by the operator. This contingency plan shall be submitted within ten working days from the date that the Zoning Administrator notifies the operator. This plan shall demonstrate to the satisfaction of the Zoning Administrator that the problem will be abated within two (2) weeks.
  - e. In the preparation of the operations plan required by subsection 7, (c) or the contingency plan which may be required by subsection 7, (d), the applicant or operator shall comply with the requirements of the Air Quality Rules promulgated under Act 348 of 1965 as amended.
8. Compost Storage.
- a. Storage of any material, other than compost, shall not be allowed on-site.
  - b. Height of compost material shall not exceed eight (8) feet.
  - c. No sludge of any kind shall be stored or deposited on composting facility property.
  - d. No bagged materials containing grass shall be accepted at a composting facility. Grass contained in bags shall be de-bagged at the original point of collection before being hauled to the composting facility.
9. Closure Plan.
- a. A closure plan shall be submitted which shall detail the final end use of the property should use of the facility be discontinued for more than twelve (12) months. The plan should describe:
    - 1.) How the existing site will be cleaned up.
    - 2.) How and where the existing surface debris will be disposed.
    - 3.) What the final disposition of the land will be.
  - b. The petitioner shall, prior to commencement of operations, deposit with the County an amount sufficient to ensure site clean up should operations cease. The deposit shall be in the form of a cash deposit, certified check, irrevocable bank letter of credit, or surety bond in an amount to be determined acceptable by the County Board of Commissioners.
  - c. Violation of any of the provisions of this ordinance or inability to meet the requirements of these provisions will result in the County having the right to close and/or clean up the composting facility and operation at the expense of the owner and/or operator and/or lessee of the composting facility.

- d. The County may, at such time, direct the owner and/or operator and/or lessee to close and/or clean up the composting facility and/or operation at the owner's and/or operator's and or lessee's expense.

#### 10. Right of Entry and Inspection.

- a. To determine compliance with this Ordinance, the County Board of Commissioners shall appoint three persons, in addition to the Zoning Administrator, who will be prepared to act as County representatives for purposes of site inspections. All composting areas are subject to inspection by the Zoning Administrator or County representative during reasonable hours. This includes all site inspections made during the preparation, construction, operation, and closure periods. Should entry to a premise for an inspection be refused, the Zoning Administrator or other authorized County official may obtain a warrant authorizing premise entry and inspection pursuant to Section 2446 of Act 368 of Public Acts of 1978, being Section 333.2446 of the Michigan Compiled Laws.
- b. The Zoning Administrator or County representative is empowered to collect and examine samples as deemed necessary to perform the duties prescribed herein, and to take photographic, videotape, or other representation of conditions existent at the composting area. No person shall hinder, obstruct, delay, resist, or prevent any inspection made or any sample collected and examined by the Zoning Administrator or a County representative. Nor shall any person molest, intimidate, harass, or impede the Zoning Administrator or a representative of the County in the lawful discharge of his or her powers and duties.
- c. Based on an alleged violation of this Ordinance, specifically designated employees or officers of the County may enter the disposal area when accompanied by a representative of the facility.

#### **Section 17.18 Convalescent Homes**

1. All such complexes shall be constructed on parcels of at least three (3) acres.
2. There shall be provided not less than one-thousand five-hundred (1,500) square feet of open space for each one (1) bed in a convalescent or nursing home, and each unit in a housing complex for the elderly. The one-thousand five-hundred (1,500) square feet of open space per bed or unit shall provide for landscaping, off-street parking, service drives, loading space, yard requirements, and required accessory uses but shall not include the area covered by main or accessory buildings.
3. Total coverage of all buildings (including dwelling units and related service buildings) shall not exceed twenty-five (25) percent of the total site not including any dedicated public right-of-way.
4. All ingress and egress to the site shall be directly from a hard-surfaced street or from an approved shared access drive to such street.
5. No building shall be closer than forty (40) feet to any lot line.
6. Building heights shall be no more than two (2) stories.
7. All such complexes shall provide for common service areas containing, but not limited to, central dining rooms, recreational rooms, and lounge areas.
8. In the case of a convalescent home for the elderly, minimum dwelling unit size shall be four-hundred (400) square feet of living area per unit.
9. All facilities shall be licensed by the Michigan Department of Public Health and shall conform to applicable state and federal laws.

### **Section 17.19 Commercial Cottages or Cabins**

1. Commercial Cottages or Cabins shall provide a means for weekly refuse collection and sufficient refuse containers.
2. The Planning Commission may require buffering, screening, setbacks and other elements that are greater than those otherwise required by this ordinance in keeping with the spirit and intent of this ordinance to protect the public health, safety and welfare, and the natural environment.
3. Commercial Cottages or Cabins shall comply with the provisions of the Public Health Code.

### **Section 17.20 Commercial Dirt Bike Tracks**

1. All race track and spectator areas must be at least five-hundred (500) feet from neighboring property lines.
2. A berm or natural buffer shall be constructed in order to protect neighboring properties from noise and dust associated with the operation of a dirt bike track.
3. Commercial dirt bike operations will not be conducted before 8:00 A.M. or after 7:00 P.M., local time.
4. The minimum lot or parcel size for commercial dirt bike tracks shall be twenty (20) acres.

### **Section 17.21 Drive in/Drive thru Establishments**

The following regulations shall apply to all drive-in/drive-thru establishments: ~~except drive-in, drive-thru restaurants.~~

1. Buildings shall be so arranged on site in a manner that screens drive-thru lanes from adjoining residentially zoned or used land.
2. Customer parking shall be located on the site in a manner which precludes pedestrians from traversing through drive-thru lanes and off-street loading zones.
3. Loading zones shall be restricted to the rear or side yards.
4. There shall be provided no less than five (5) stacking spaces for the drive-thru lane.
5. Devices for the transmission or broadcasting of voices or music shall be so directed or muffled as to prevent said sound or music from being audible beyond the boundaries of the site.
6. Businesses adjacent to or integrated in a shopping center or cluster of commercial facilities shall use the common access with other business establishments in that center.
7. The site shall have at least one (1) lot line on a hard-surfaced street.
8. The outdoor space used for parking and vehicle stacking shall be hard-surfaced and adequately drained pursuant to Article XIX.
9. All areas used for the storage of trash and rubbish shall be screened by a vertical screen consisting of structural or plant materials no less than five (5) feet in height, with a view-obstructing door.

10. Drive-in establishment management shall provide adequate trash and litter policing for the parking lot and the shoulders of adjacent roadways. These areas shall be completely cleared of accumulated debris as often as necessary.
11. The minimum distance between driveways on the site shall be seventy-five (75) feet measured from the two (2) closest driveways' curbs, measured along the right-of-way.
12. The minimum distance a driveway into the site shall be from a road intersection shall be sixty (60) feet measured from the intersection of the road right-of-way to the nearest end of the curb radius.
13. Vehicular circulation patterns into and out of such businesses shall be located and designed to minimize disruption of and conflicts with through traffic movement on abutting roads.

#### **Section 17.22 Dry Cleaning Plant**

1. All storage tanks or other facilities used to store hazardous, toxic, odorous, explosive or flammable substances shall be equipped with appropriate containment structures or equipment; to prevent any migration of such substances into the groundwater or surface waters of the County; and to prevent said substances from being perceptible outside such containment.
2. The Planning Commission may impose hours of operation limitations to protect the character of surrounding uses.

#### **Section 17.23 Farm Market (10-25-06)**

A farm market, when approved as a special land use in the AG, RE & R-R Districts, shall comply with all of the following requirements:

1. The farm market may be established and used for the seasonal display and sale of vegetables, fruit, plants, flowers and other produce from farms and other agricultural enterprises, including the display and sale of other incidental merchandise generally associated or related to farm produce and products, small arts and crafts items and other merchandise.
2. The farm market shall be owned and operated by the owner or tenant of the farm market property.
3. The operation of the farm market shall be incidental and subordinate to the existing and principal use of the farm market property for permitted planting, cultivation, harvesting and sale of agricultural products, including fruits, vegetables, grains, flowers or herbs.
4. The maximum floor area of any building or other enclosure used for sales and display purposes shall be 800 square feet.
5. The operation of the farm market may include the retail sale of unprocessed fruits, vegetables, flowers and herbs and also the retail sale of eggs, baked goods and fruit beverages, such as cider.
6. The operation of a farm market may also include the display and retail sale of non-food items limited to dried flower arrangements, small arts and crafts items, cook books, live plants, seeds, small implements for food preparation and other small items substantially related to farm produce and products.

7. On-site vehicle parking shall be provided on the farm market property in an amount sufficient to accommodate the reasonably anticipated number of farm market patrons. The on-site parking shall be arranged so as to avoid the accumulation of parked cars on nearby streets.
8. All farm market buildings and activities, including off-street parking, shall be located at least 100 feet away from any adjacent lot line of property used for residential purposes.
9. A farm market shall be operated on a seasonal basis only.
10. The driveway or other means of access to the farm market site shall be located at least 100 feet away from the right-of-way of any intersecting street.
11. A farm market shall have no more than two temporary signs, neither of which shall exceed 24 square feet, unless a greater number of signs and/or a greater amount of sign area is permitted by the terms of the special land use.
12. Other aspects of the design, placement and operation of a farm market shall be as specified in the terms of the special land use, including but not limited to off-street parking area, months and hours of operation, additional or larger signage, display and sale of specified agriculturally related items or merchandise, buffering of the use from adjacent or nearby residential uses, outdoor lighting, outdoor sales area and other aspects of the farm market use.

#### **Section 17.24 Fuel Storage/Well**

1. All ingress and egress to the site shall be directly from a hard-surfaced street or from an approved shared access drive to such street.
2. The Planning Commission shall select an adequate greenbelt area to be situated between this use and industrial uses permitted by right.
3. No part of the site shall be contiguous to a residential district.

#### **Section 17.25 Forest Industries**

1. Wood processing components of the forest industry operation shall be a minimum distance of one-hundred (100) feet from any property line and two-hundred (200) feet from any existing residential dwelling, other than the owner's. Lumber storage sheds and sawmill offices are exempt from this setback requirement, and may be located in accordance with the standard setback requirements in Section 14.04.
2. Sawdust piles shall be set back a minimum of fifty (50) feet from streams or water bodies.

#### **Section 17.26 Funeral Homes**

1. All ingress and egress to the site shall be directly from a hard-surfaced street.
2. Adequate off-street assembly area shall be provided for vehicles to be used in the funeral procession.
3. Such assembly area will be in addition to required off-street parking.
4. A caretakers residence may be provided within the main building of the mortuary establishment.

5. All parking shall be located in the side or rear yard.

#### **Section 17.27 General Contractor Yards, including other special trade contractors**

1. All ingress and egress to the site shall be directly from a hard-surfaced street.
2. Required outdoor storage of motorized vehicles, generators, or other equipment used in connection with the business shall be contained within a screened area of the lot.
3. Materials used in connection with the business shall be confined to a screened area or within an enclosed building.
4. No outside work in connection with the business shall be permitted except for emergency conditions, for which approval by the Zoning Administrator is required.

#### **Section 17.28 Golf Courses**

1. Site Requirements:
  - a. Minimum site shall be eighty (80) acres for a nine-hole course.
  - b. Minimum site shall be one-hundred sixty (160) acres for an eighteen (18) hole course.
  - c. The minimum site for tennis, racket sport and swimming facilities shall be no less than four (4) acres.
2. Buffering Requirements:
  - a. A landscaped buffer zone shall be provided between the parking and principal structure area and any adjacent residential development.
  - b. A fifteen (15) foot minimum undisturbed buffer zone between turf areas and natural water bodies, watercourses, or wetlands must be maintained. The buffer zone must contain natural vegetation and shall not be chemically treated.
3. Performance Standards:
  - a. Accessory uses may include: clubhouse/pro shop, managerial facilities, maintenance shed, toilets, lockers, standard restaurant and drinking establishments, tennis, racket sport, and swimming facilities.
  - b. The clubhouse design is to be of a residential character and exterior materials are to be primarily wood or brick.
  - c. Major accessory uses such as a standard restaurant and bar shall be housed in a single building with the clubhouse. Minor accessory uses strictly related to the operation of the golf course itself, such as maintenance garage, pro shop, or golf shop, may be located in separate structures.
  - d. All principal or accessory buildings and parking areas shall be not less than two-hundred (200) feet from any lot line or abutting residentially zoned lands; provided that where topographic conditions are such that buildings would be screened from view, the Planning Commission may modify this requirement.
  - e. Access shall be so designed as to provide all ingress and egress directly onto or from a hard-surfaced street or from an approved shared access drive to such street.

- f. The total lot area covered with principal and accessory buildings shall not exceed fifteen (15) percent.
- g. All artificial lights shall be directed away from adjoining properties.
- h. No outdoor loudspeaker or call system shall be audible on adjoining property.
- i. Outside storage shall be properly screened.
- j. No dwelling units shall be provided on the premises except for living quarters for a resident manager, watchman, or caretaker. Those living quarters, if any, shall be constructed as part of the principal structure.
- k. A golf driving range accessory to the principal use of the golf course is permitted provided the area devoted to this use shall maintain a seventy-five (75) foot front yard and a one-hundred (100) foot side and rear yard setbacks. The area shall be buffered by natural vegetation and fencing to minimize the impact upon adjoining properties.
- l. Golf courses shall retain and preserve native vegetation over at least thirty (30) percent of the total upland area of the course to reduce water demand, excessive soil erosion, and heavy nutrient run-off.
- m. Water quality protective measures are required as follows:
  - 1.) Maintenance of erosion control barriers during construction and until all ground cover is established.
  - 2.) To the extent practicable, runoff must be directed to on-site holding/sedimentation ponds with a water quality control structure installed at the outlet prior to water discharge from the premises.
  - 3.) Site areas in proximity to fuel and chemical storage areas shall be designed to direct all runoff to an on-site ponding area.
  - 4.) A chemical storage area must be designated within an accessory building. The area must provide secondary containment to prevent the spread of spills.
  - 5.) An inventory manifest of stored chemicals must be posted at the entrance of the accessory building. Said listing must also be filed with the County Health Department, EMP.
  - 6.) Fueling facilities on site shall be constructed with secondary containment measures in place to capture accidental spills or leakage.
- n. At any time widespread or non-spot application of herbicide, insecticide, fungicide, or rodenticide is to occur, notification signs must be posted at lot lines. The signs are to state the type and name of the chemical, date and time of application, and other appropriate information. All chemical applications must be applied by a Michigan Department of Agriculture Licensed Applicator.
- o. Chemicals shall meet the requirements of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), the Environmental Protection Agency (EPA), and all appropriate state statutes and administrative directives.
- p. In order to ensure that the site can be restored to prior conditions should golf course construction not be completed, the County may require posting of a performance guarantee or other acceptable security.

- q. Swimming pools shall conform to the requirements of Section 3.23.

#### **~~Section 17.22 Golf Courses, Par Three (Outdoor recreation)~~**

- ~~1. The minimum area shall be twenty (20) acres.~~
- ~~2. All ingress and egress to the site shall be directly from a hard surfaced road.~~
- ~~3. Development features, including the principal and accessory buildings and structures, shall be so located and related as to minimize the possibilities of any adverse affects upon adjacent property.~~
- ~~4. The minimum number of off-street parking spaces to be provided shall be the number required for the driving range in addition to the number required for each accessory use.~~

#### **Section 17.29 Golf Driving Ranges**

1. The minimum area shall be twenty (20) acres.
2. All ingress and egress to the site shall be directly from a hard-surfaced street.
3. No driving range shall be located closer than three-hundred (300) feet to any interior property line.
4. Development features, including the principal and accessory buildings and structures, shall be so located and related as to minimize the possibilities of any adverse affects upon adjacent property.
5. The minimum number of off-street parking spaces to be provided shall be the number required for the driving range in addition to the number required for each accessory use.

#### **Section 17.30 Greenhouses**

1. The minimum property shall be five (5) acres.
2. All ingress and egress to the site shall be directly from a hard-surfaced street.
3. The storage or display of any materials shall conform to all building setback requirements of a structure.
4. The total square footage of all impervious surfaces shall not exceed three (3) percent of the total area.
5. All parking and loading shall be provided off-street.
6. The parking area shall be designated so as not to disrupt abutting residences with noise or headlights.

#### **Section 17.31 Group Day Care Homes**

1. Location Requirements.

Group day care homes shall not be located closer than one-thousand five-hundred (1,500) feet to another licensed group day care home, adult foster care small group home or large group home licensed under the Adult Foster Care Facility Licensing Act, PA 218 of 1979, MCL 400.701 et seq., a facility offering substance abuse treatment and rehabilitation service to 7 or more people licensed under Article VI of the Michigan Public Health Code, PA 368 of 1978, MCL 333.6101 et seq., or 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.



2. Site Requirements:

- a. All outdoor play areas shall be enclosed with fencing, a minimum of four (4) feet high.
- b. An off-street drop-off area is to be provided with the capability to accommodate at least two (2) automobiles in addition to the parking normally required for the residence. A driveway may be used for this purpose.
- c. One (1) on-site parking space shall be provided for any assistant provider or caregiver not a resident on the premises.
- d. Playground equipment shall not be located in front or side yards.
- e. One sign is permitted providing:
  - 1.) It is for identification purposes only.
  - 2.) It is not internally illuminated and does not exceed four (4) square feet.
  - 3.) It shall be mounted flush to the principal structure.

3. Buffering Requirements: Adequate provision shall be made to reduce noise impacts on surrounding residential properties pursuant to the requirements of Sections 3.13 and 3.14.

4. Performance Standards:

- a. The group day care facility shall not operate between the hours of 10 p.m. and 6 a.m. or more than one (1) day per week, unless specifically permitted by the Planning Commission.
- b. Operation and maintenance of all group day care facilities shall conform to existing applicable county and state regulations.

**Section 17.32 Home Based Business (10-24-05)**

A home based business may be permitted as a special land use in accordance with this section.

1. Home-based businesses in the Access Management Overlay shall comply with the standards of the overlay zone.
2. A home based business may be permitted in the AG, RE, F, GB, R-1 and RR Districts, in accordance with this section. The home based business shall be clearly secondary and subordinate to the residential use of the property.
3. A home based business shall be carried on by one or more members of a family residing on the premises, plus not more than three non-resident employees.
4. The home based business shall be conducted in the dwelling or elsewhere on the premises only to such extent that the activity serves as a base of operations for an occupation or business activity which primarily takes place elsewhere; provided, however, that a special land use may be approved for certain other home based businesses which are carried out primarily on the home based business property, as stated in subsection 13 of this section.
5. No more than 50 percent of the total of the square footage of the dwelling and all accessory buildings on the property shall be used in the home based business.

6. Any outdoor storage of goods, materials or equipment involved in the home based business, including any temporary storage of waste and trash, shall be screened from view from adjacent and nearby lands and from public rights-of-way by landscaping, natural topographic features, fencing or other screening measures.
7. No goods or commodities other than those customarily associated with the home based business shall be sold on the premises.
8. There shall be no substantial change in the outside appearance of the dwelling or any accessory building, or other part of the premises, as a result of the conducting of the home based business, except that limited outdoor signage may be permitted, but such signage shall comply with the applicable sign requirements of the zone district in which the use is located.
9. There shall be only incidental or occasional sale of goods, merchandise, supplies or products on the premises.
10. No combustible, toxic or hazardous material may be used or stored on the premises, except in a safe manner and in full compliance with all federal, state and local requirements concerning the use, handling, storage, transport and disposal of any such materials; provided, however, that the safe storage of pesticides and herbicides by landscaping enterprises shall be permitted if otherwise lawful.
11. There shall be no activity that would interfere with radio or television transmission in the area, nor shall there be any offensive noise, vibrations, smoke, dust, odors, heat or glare resulting in any serious adverse effect beyond the property where the home based business is located.
12. Any motor vehicle traffic generated by the home based business shall be only to such limited extent that the number of vehicles, the frequency of vehicle trips, the noise of vehicles and other resulting impacts shall have no serious adverse effects on adjacent or nearby lands.
13. If the parking of motor vehicles will result from the home based business, an adequate off-street parking area shall be provided on the parcel of land where the home based business is conducted; such off-street parking area shall not be located in a required front yard setback area, except that vehicles generated by the home based business may be parked in a driveway that is used to provide vehicle access to the dwelling.
14. In addition to home based businesses as to which the primary business activity takes place off the site of the home based business, certain other home based businesses as to which all or the primary portion of the business activity takes place on the home based business property, may be permitted as a special land use, as follows:
  - (a) Beauty salons and barber shops.
  - (b) Photography Studios.
  - (c) Furniture upholstery.
  - (d) Small engine repair.
  - (e) Cabinet making and carpentry work.
  - (f) Television and other appliance repair.
  - (g) Organized classes with not more than six students at one time.

- (h) Catering businesses.
  - (i) Turf services and landscaping enterprises.
  - (j) The occasional, temporary convenience storage of inventory, supplies and minor equipment used in an occupation, whether or not the occupation is a home-based business conducted on the premises, where such storage takes place only in a dwelling or in a permitted accessory building and where the delivery, storage and removal of such inventory, supplies and minor equipment do not have serious adverse effects upon adjacent or nearby lands.
  - (k) Such other home based businesses not listed in this section but which are determined by the Planning Commission to be sufficiently similar to those listed above as to qualify as home based businesses under this section. In making such determination, the Planning Commission shall consider the following:
    - (1) The extent to which the proposed home based business is reasonably similar to those listed in this subsection.
    - (2) Whether the major features and characteristics of the proposed home based business cause the proposed business to qualify under the requirements stated in this subsection.
    - (3) Whether the home based business is reasonably included within the definition of home based business, as stated in this Ordinance.
    - (4) The extent to which the proposed home based business involves only limited business activity, would have no serious adverse effects on adjacent or nearby lands and would be of such nature that its commercial aspects would not seriously impinge upon the residential character of adjacent and nearby lands.
15. An applicant shall apply for the home based business special land use by submitting a complete application form for the proposed special land use and shall pay the required application fee and other charge, if any. Among other information, the application shall include the following:
- (a) A site plan drawn to scale, showing the dwelling and any accessory buildings to be used in the home based business and other buildings on the site. The site plan shall include property dimensions, distances of building setbacks from property lines, ground floor area of each building and total ground floor area of all buildings to be used in the home based business. The site plan shall also show structures located within 100 feet of the property lines of the home based business parcel, driveway locations and uses occurring within all existing accessory buildings on the site.
  - (b) A description of the home based business, including the activities to occur both on-site and off-site.
  - (c) The number of employees of the home-based business, including family members and non-resident employees.
  - (d) The days and hours of operation.
  - (e) The location, dimensions and heights of proposed signs; the location and area of off-street parking, including driveways and areas of traffic circulation on the site.

- (f) Proposed outdoor storage, including the location and dimensions thereof and measures for the screening thereof.
  - (g) Any anticipated landscaping, topographic features, fencing and other screening measures.
  - (h) A description of anticipated impacts of the home based business on adjacent and nearby lands, including motor vehicle traffic, noise and other potential effects.
  - (i) A survey of the home based business property, if the applicant has an existing survey thereof.
16. In approving a home based business special land use, the Planning Commission may include reasonable terms and conditions, pertaining to the following matters, among others:
- (a) The size and location of any accessory building to be used in the home based business
  - (b) The means of access to the home based business and the expected frequency of vehicle trips to and from the home based business, by customers, delivery vehicles, and others.
  - (c) The distance between the location of the home based business and dwellings on adjacent or nearby lands; any landscaping or screening proposed to be installed for the purpose of shielding the view of the home based business from other lands.
  - (d) The number of persons to be engaged in the home based business.
  - (e) The area and location of any off-street parking area and any off-street loading area.
  - (f) Proposed signage, if any, and proposed outdoor lighting, if any.
  - (g) The expected hours of operation of the home based business.
  - (h) The nature and type of the equipment, materials and processes to be used in the home based business, and the likelihood that any such equipment, materials or processes may generate noise, vibration, fumes, odors, glare or electrical interference.
  - (i) Other aspects of the home based business, in relation to adjacent and nearby land uses and the adjacent and nearby streets.
17. A home based business shall at all times comply with the minimum requirements of this section and all other applicable requirements. The expansion or enlargement of a home based business, or its departure from any required conditions or limitations, shall be grounds for the revoking of the home based business permit. Upon the revoking of the permit, the applicant shall no longer engage in the home based business.
18. A home based business lawfully in existence at the time of adoption of this section may continue in the same manner and to the same extent as was the case at the time of adoption of this section.
19. A home based business lawfully in existence at the time of adoption of this section may not be enlarged, expanded or increased in use intensity except in compliance with this section.

### **Section 17.33 Hospitals.**

#### **1. Location Requirements:**

- a. Ingress and egress to the site shall be only from a hard-surfaced street.
2. Site Requirements:
- a. The minimum lot or parcel size for hospitals shall be ten (10) acres.
  - b. No more than twenty-five (25) percent of the site area shall be covered by buildings.
  - c. The building height of a hospital shall be no more than four (4) stories or forty-five (45) feet.
  - d. The minimum distance of any building from lot or right-of-way line shall be at least one-hundred (100) feet for front, rear, and side yards for all two (2) story structures. For every story above two (2), the minimum yard distance shall be increased by at least twenty (20) feet. Buildings less than two (2) stories shall be no closer than forty (40) feet from any lot line or right-of-way.
  - e. Access to and from any delivery or ambulance areas shall be directly from a hard-surfaced street.
  - f. Noise producing activities, such as ambulance and delivery areas, laundry, or power plant, shall not be located closer than three-hundred (300) feet from any residential area.
3. Buffering Requirements:
- a. Ambulance and delivery areas shall be obscured from all residential view with a wall at least six (6) feet in height. Said wall shall further be in accordance with the General Provisions article of this Zoning Ordinance.
  - b. Parking areas shall be screened from surrounding residential areas by a wall or fence, in combination with suitable plant materials as specified in Section 3.13 and Article XIX.
  - c. All lighting shall be shielded from adjacent roads and residential districts.
4. Performance Standards:
- a. All hospitals shall be licensed by the Michigan Department of Public Health.
  - b. Hospitals shall conform to applicable state and federal laws.

#### **Section 17.34 Hotel (10-24-05)**

- 1. Where the front yard is used to provide access, a twenty-five (25) foot greenbelt shall be provided along the front-yard property line, except for drive openings.
- 2. Each guest unit shall contain a minimum of two-hundred and fifty (250) square feet of gross floor area.
- 3. A minimum lot area of forty thousand (40,000) square feet is required together with a minimum lot width of one-hundred and fifty (150) feet, plus there shall be an additional four hundred (400) square feet of lot area for each guest unit.
- 4. Where adjoining a residential use or Residential District, the Planning Commission may require a solid wall, fence, or similar vegetative buffer along the lot line having a maximum height of six (6) feet.

#### **Section 17.35 Incinerators**

1. Incineration shall be conducted within an enclosed building.
2. The applicant shall demonstrate compliance with any applicable Local, State and Federal requirements.
3. A proposal to establish an incinerator facility shall not be approved unless the Planning Commission reaches a finding, based on objectively verified evidence, that all processes to be used in the handling of incineration shall be the most advanced such systems in terms of the following criteria:
  - a. Potential environmental impacts on air, surface water, ground water, soils, and natural features, shall be minimized or fully mitigated.
  - b. Potential community impacts on nearby land uses, public infrastructure and the economic vitality of the community shall be demonstrated to be either neutral or positive.
  - c. Potential impacts on the health of residents of Mason County and on plant and wildlife communities in the vicinity shall be negligible.
  - d. Potential safety impacts on the residents of Mason County and surrounding communities and employees of the facility shall be fully and adequately addressed.
4. The applicant shall fully disclose:
  - a. The nature and quantity of all fuels, chemicals, hazardous materials to be used or stored on site.
  - b. All operating and procedural details of the proposed facility including, but not limited to, equipment specifications, maintenance schedules, capital replacement schedules and plans for eventual decommissioning of the facility.
  - c. The chemical composition of all emissions to the air, groundwater and surface waters.
  - d. The organizational, capital and operating financial structure for the proposed facility including resumes of officers, all members of the board of Administrators and key technical staff assisting in the development.
  - e. The proposed phasing of the project including any change in ownership of the facility during development or following start-up.
  - f. All required federal, state and local permits needed for facility operation, the procedures for permit application, the standards for review and approval, the specific agencies responsible for permit review and the status of all such permit applications.
5. The Planning Commission may require buffering, screening, lot sizes, setbacks and other elements that are greater than those otherwise required by this ordinance in keeping with the spirit and intent of this ordinance to protect the public health, safety and welfare.

#### **Section 17.36 Reserved**

#### **Section 17.37 Junkyards**

1. Location Requirements:
  - a. Ingress and egress to the facility shall be only from a hard-surfaced street or from an approved shared access drive to such street. The Planning Commission may approve access to an

unpaved or County Local Road if the Commission finds that such access point will further minimize impacts on other properties.

2. Site Requirements:

- a. The minimum lot or parcel size for junkyards shall be five (5) acres.
- b. Setbacks:
  - 1.) All enclosed areas shall be set back at least one-hundred (100) feet from any front lot line.
  - 2.) Junkyards shall not be located closer than two-hundred (200) feet from the border of the Industrial District.
- c. 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.
- d. Whenever the installation abuts a residential district, a transition strip at least two-hundred (200) feet in width shall be provided between the enclosed area and the adjoining district. Such strip shall contain plants, grass, and structural screens of a type approved by the Planning Commission.

3. Buffering Requirements:

- a. The front yard shall be planted with trees, grass, and shrubs. The spacing and type of plant materials shall be consistent with the provisions of Sections 3.13 and 3.14.
- b. A solid fence, wall, or earthen berm at least eight (8) feet in height but no higher than ten (10) feet shall be provided around the periphery of the site to screen said site from surrounding property. Such fence, wall or berm shall be of sound construction, painted, or otherwise finished neatly and inconspicuously. Such fence, wall, or berm shall be of permanent finish and construction.

4. Performance Standards:

- a. All activities shall be confined within the enclosed area. There shall be no stocking of material above the height of the fence, wall, or berm, except that moveable equipment used on the site may exceed that height. No equipment, material, signs, or lighting shall be used or stored outside the enclosed area.
- b. No open burning shall be permitted and all industrial processes involving the use of equipment for cutting, compressing, or packaging shall be conducted within a completely enclosed building.
- c. All roads, driveways, parking lots, and loading and unloading areas within any junkyard shall be paved, watered, or chemically treated so as to limit the nuisance caused by wind-borne dust on adjoining lots and public roads.
- d. The operation shall be licensed by the Michigan Secretary of State to sell used vehicle parts or tow non-operational vehicles. Before the state will issue the licenses, the Zoning Administrator and the County Sheriff shall certify that the facility is in a properly zoned area and that the operators have not been previously convicted as felons.
- e. Any materials listed on the Michigan Critical Materials Register (gasoline and solvents) require secondary containment and a Pollution Incident Protection Plan filed with the Michigan Department of Natural Resources.

### **Section 17.38 Kennels, Commercial or Boarding**

1. A commercial or boarding kennel shall be on a lot with a minimum lot size of five (5) acres for the first eleven (11) animals and an additional one-third acre for each animal thereafter.
2. Accessory buildings where animals are kept, runs, and exercise areas shall not be located nearer than one-hundred (100) feet to any adjacent residential lot line.
3. All commercial or boarding kennels shall be operated in conformance with all applicable county, state, and federal regulations.
4. ~~Hobby kennels shall only house animals owned by the occupant of the dwelling unit.~~
5. The main kennel building used to house the animals shall be insulated in such a manner that animal noises are minimized.
6. The intensity level of sounds shall not exceed seventy-five (75) decibels at the lot line of industrial uses; sixty-five (65) decibels at the lot line of commercial uses and fifty-five (55) decibels at the common lot line when adjacent to residential uses and residential districts. The sound levels shall be measured with a type of audio output meter approved by the United States Bureau of Standards.
7. Exercise yards, when provided for training or exercising, shall not be used between the hours of 10:00 p.m. and 7:00 a.m.
8. During the hours between 7:00 a.m. until 10:00 p.m., animals shall be permitted in outdoor runs or pens. Animals shall be kept confined and not allowed to run at large on the property, except as part of supervised training.
9. Runs and/or exercise areas, and buildings where the animals are maintained shall be located in the rear yard only.
10. The commercial or boarding kennel area shall be screened from view by appropriate screening as determined by the Planning Commission in conformance with Section 3.13.
11. The outside perimeter of the run and/or exercise area of a ~~hobby~~ or commercial or boarding kennel shall be enclosed by chain link or cyclone fencing at sufficient height or completely covered on sides and top having to prohibit the escape of animals.
12. All animals must be licensed and maintained in a healthful and careful manner.
13. Outdoor runs and breeding areas in commercial kennels shall have concrete surfaces, suitable for cleaning by high-pressure water, and shall be provided with an adequate septic system.
14. The premises shall be kept in a clean and sanitary manner to prevent the accumulation of flies, the spread of disease, or offensive odor.
15. Animal odors shall not be detectable beyond the lot lines of the property in which the kennel is located.
16. Dust and drainage from the commercial or boarding kennel enclosure shall not create a nuisance or hazard to adjoining property or uses.

### **Section 17.39 Reserved**



#### **Section 17.40 Manufacturing**

1. The Planning Commission may establish hours of operation to protect the character of the land uses in the vicinity.
2. Noise generated on site from any source shall not exceed sixty (60) Decibels measured at any property line.
3. The Applicant shall disclose any hazardous, flammable or corrosive materials proposed to be stored, used or handled on the Lot. Use and handling shall be conducted in accordance with applicable State and Federal requirements.
4. Federal, State and local agency requirements for storage, spill prevention, record keeping, emergency response, transport and disposal of hazardous substances and polluting materials shall be met. No discharge to groundwater, including direct and indirect discharges, shall be allowed without appropriate State and County permits and approvals.
5. Any storage facilities shall provide adequate security and signage to notify the public of any hazardous materials and to prevent trespass.
6. Outdoor storage of materials, substances, products or component parts is not permitted. The Planning Commission may waive this prohibition upon a finding that adequate screening is provided.
7. Vehicles and equipment that are actively used as an integrated component of the establishment may be temporarily parked on the lot from time to time, provided such parking is located in the side or rear yard, and screened from public view. Screening shall consist of fencing or landscape materials approved by the Planning Commission and shall screen the equipment from any street or non-industrial Zoning District or use. No portion of the parking area shall be located within one hundred (100) feet of any residential district or use.
8. The Planning Commission reserves the right to require buffering, screening, setbacks and other elements that are greater than those otherwise required by this Ordinance in keeping with the spirit and intent of this Ordinance to protect the public health, safety and welfare.
9. The Applicant shall demonstrate and disclose the following:
  - a. Potential environmental impacts on air, surface water, ground water, soils, and natural features (these potential impacts shall be minimized or fully mitigated);
  - b. Potential impacts on the health of residents of the County and surrounding communities and on plant and wildlife communities in the vicinity (the Planning Commission shall not approve the proposed manufacturing, compounding, or processing use if potential impacts are significant); and
  - c. The potential chemical constituents of all emissions to the air, groundwater and surface waters (impacts of these emissions shall be negligible).

#### **Section 17.41 Migrant Labor Housing**

- A. Intent. The intent of this Section is to permit the establishment of dwellings as a part of an active farm operation. Such dwellings shall consist of seasonal residences for migratory laborers and their family members and shall be reviewed and approved by the Planning Commission as a Special Land Use.
- B. Migrant Labor Housing Standards.

1. One or more dwellings proposed for use by migrant laborers may be permitted as a special land use provided it meets the requirements of the Michigan Department of Agriculture, Agricultural Labor Camp Rules and the following standards:

a. Setbacks:

i. Migrant Labor Housing shall be located on the same or adjacent parcel as the dwelling occupied by the camp operator. The area devoted to migrant labor housing shall adhere to the required setback requirements of the A district.

ii. The distance between the migrant labor housing and the nearest dwelling not owned by the camp operator shall be greater than the distance to a camp operator dwelling. In no case shall the migrant labor housing camp be located closer to the nearest dwelling not owned by the camp operator than to the camp operator dwelling. For example, if an adjacent dwelling not owned by the camp operator is 250 feet from proposed migrant labor housing, the distance to a camp operator dwelling must be less than 250 feet.)

b. The number of migrant labor housing units provided shall not exceed more than one (1) unit for each five (5) acres of land devoted to active farming operations.

c. Migrant Labor Housing shall have no more than two levels above ground nor contain more than three (3) dwelling units per building. Building height shall not exceed thirty (30) feet.

d. Migrant Labor Housing shall meet the dwelling standards contained in section 3.20 of the Mason County Zoning Ordinance.

e. One (1) vehicle parking space shall be provided per dwelling unit.

f. The Planning Commission may require a berm, privacy fence, or landscape plantings to screen the migrant labor housing from view of adjacent or nearby residential dwellings.

g. To ensure adequate access for emergency vehicles and personnel, no migrant labor housing shall be located closer than twenty (20) feet to any other building or structure.

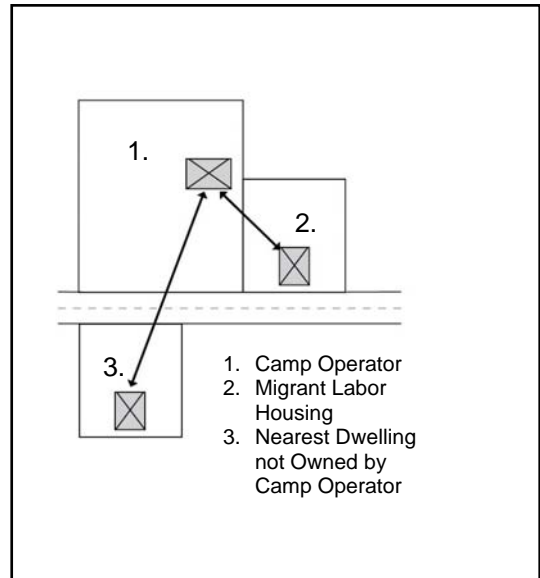
h. Any structure utilized for migrant labor housing shall be subject to all applicable County building permits and inspection requirements, including mechanical, electrical, and plumbing.

i. Migrant Labor Housing shall be occupied only by migrant farm laborers and shall not be used for any other purpose.

j. All Migrant Labor Housing units shall comply with the Agricultural Labor Camp Rules of the Michigan Department of Agriculture. Evidence of such compliance shall be provided to Mason County Zoning Administrator on an annual basis. Failure to maintain compliance with such standards and licensing shall be grounds for revocation of a special land use permit for Migrant Labor Housing.

k. If Migrant Labor Housing is not used predominately by migrant laborers for more than a two (2) year consecutive period, it shall be removed from the site by the property owner. It shall be the responsibility of the camp operator to provide evidence of occupancy.

C. A special land use for Migrant Labor House shall follow the review and approval process set forth in Article XVI, provided however, a plot plan shall be required instead of a site plan.



#### **Section 17.42 Mini-Warehousing/Storage**

1. Building separation between self-storage buildings on the same site shall be a minimum of twenty-four (24) feet or equal to the building height, whichever is greater.
2. The total lot coverage of all structures shall be limited to thirty-five (35) percent of the total lot area.
3. A ten (10) foot landscaped greenbelt shall be provided between the property line and wall required along all road frontages. A five (5) foot landscaped greenbelt shall be provided between the property line and wall where the site abuts any residential district. All materials shall be planted in conformance with the General Provisions article of this Zoning Ordinance.
4. Parking shall be provided in accordance with the following: two (2) spaces for the resident manager, one (1) additional space for each additional employee, and two (2) additional spaces for customers shall be provided adjacent to the rental office.
5. Internal driveway aisles shall be a minimum of twenty-four (24) feet in width.
6. All off-street parking areas and driveways shall be hard-surfaced and drained so as to preclude drainage onto adjacent property.
7. All ingress and egress from this site shall be onto a hard-surfaced street or from an approved shared access drive to such road.
8. Building height shall not exceed one (1) story or fourteen (14) feet except that a caretaker or resident manager's unit may be allowed a building height of two (2) stories or twenty-five (25) feet.
9. No single storage building shall exceed seventy-five hundred (7,500) square feet.
10. All storage on the property, with the exception of Item 11, below, shall be kept within an enclosed building.
11. The outdoor storage of recreational vehicles, motorized homes, and travel trailers may be permitted. All such areas shall be on an aggregate treated surface, or better. Such storage shall be completely screened from view from all adjacent residential areas.

#### **Section 17.43 Motels**

1. Ingress and egress to the motel shall be only from a hard-surfaced road or from an approved shared access drive to such road.
2. There shall be at least eight-hundred (800) square feet of lot area for each guest.
3. The maximum lot coverage of all buildings, including accessory buildings, shall not exceed twenty-five (25) percent of the area within the lot lines of land developed at any one time.
4. The front twenty-five (25) feet of the lot shall be landscaped buffer zone, unpaved, and shall not be used for off-street parking.
5. Trash dumpsters shall be screened from adjacent properties by vegetation, landscaping, or fences, pursuant to the requirements of Section 3.13.
6. No kitchen or cooking facilities shall be provided in guest rooms.
7. The minimum floor area of each guest unit shall be two-hundred fifty (250) square feet.

8. No guest shall establish permanent residence at the motel.

#### **Section 17.44 Commercial Mud Bogging Tracks**

1. All race track and spectator areas must be at least five hundred (500) feet from neighboring property lines.
2. A berm or natural buffer shall be constructed in order to protect neighboring properties from noise associated with the operation of a mud bogging track.
3. Commercial mud bogging operations will not be conducted before 8:00 A.M. or after 7:00 P.M., local time.
4. The minimum lot or parcel size for ~~commercial~~ mud bogging tracks shall be twenty (20) acres.

#### **Section 17.45 Multiple Family Dwellings**

1. An underground irrigation system is required for multiple family dwellings. An acceptable alternative water supply may be approved where the Zoning Administrator or Planning Commission finds that such supply would ensure the adequate coverage of landscaped areas.
2. Mechanical, stairwell enclosure, access hatches and elevator equipment and any required screening may extend above the maximum height permitted but not by more than five (5) feet. The total area covered by all mechanical equipment, stairwell enclosure, and elevator equipment may not exceed one hundred (100) square feet and shall be located so as to not be visible from any adjoining right-of-way.
3. Any dumpsters on the site shall be screened on four sides by an opaque enclosure at least six (6) feet in height equipped with a lockable gate so the dumpster is not visible from any lot line.
4. Blank walls shall not be permitted when visible from a right-of-way, public open space or public parking area. At least ten (10) percent of such facades shall be comprised of windows, vertical trellises and climbing plants, or other architectural features.
5. No façade along a street shall be longer than sixty (60) feet. A minimum of twenty (20) feet of building separation shall be required.
6. The Planning Commission shall reserve the right to review building orientation, articulation, massing and architectural style with an interest in promoting walkable, mixed use environments with connections from residential to commercial environments.
7. Multiple-family dwellings shall be connected to public water and sewer systems.

#### **Section 17.46 Nursing Homes**

1. The use shall be established and maintained in accordance with all applicable Local, State and Federal laws.
2. If the use is operating as a nursing home, under the provisions of Article 17 of Michigan Public Act 368 of 1978, the nursing home shall maintain all valid state and local licenses at all times as a condition of Special Use approval.
3. A nursing home, as defined herein, shall not be located within fifteen hundred (1,500) feet of any other nursing home.

4. Parking shall comply with the parking requirement for each specific use on the site, however, parking requirements may be reduced if the Planning Commission finds that such requirements may be modified due to varying hours of operation or other factors.
5. The nursing home may have multiple, accessory uses such as bank, hair salon, restaurant, or others, with the approval of the Planning Commission.
6. There shall be provided not less than one-thousand five-hundred (1,500) square feet of open space for each one (1) bed in a nursing home. The one-thousand five-hundred (1,500) square feet of open space per bed or unit shall provide for landscaping, off-street parking, service drives, loading space, yard requirements, and required accessory uses but shall not include the area covered by main or accessory buildings.
7. Total coverage of all buildings (including dwelling units and related service buildings) shall not exceed fifty (50) percent of the total site not including any dedicated public right-of-way.
8. All ingress and egress to the site shall be directly from a hard-surfaced street or from an approved shared access drive to such street.
9. No building shall be closer than forty (40) feet to any lot line.
10. All such complexes shall provide for common service areas containing, but not limited to, central dining rooms, recreational rooms, and lounge areas.
11. The minimum dwelling unit size shall be four-hundred (400) square feet of living area per unit, if applicable.

#### **Section 17.47 Open Air Businesses**

Open air businesses shall include, but need not be limited to, the following: automobile, manufactured home, truck and boat sales, agricultural equipment sales, nursery, landscaping supplies, lumber yards, and home and garden centers.

##### **1. Site Requirements:**

- a. The minimum frontage shall be two-hundred (200) feet.
- b. No loading activities shall be permitted within seventy-five (75) feet of any lot line abutting a residential land use.
- c. All buildings shall be set back a minimum of fifty (50) feet from any lot line.
- d. Ingress and egress to the facility shall be only from a hard-surfaced road or from an approved shared access drive to such road.
- e. No more than two (2) driveways onto a road shall be permitted per site. Driveway approach width shall not exceed thirty-five (35) feet.

##### **2. Buffering requirements:**

- a. Trucking, outside storage, loading, and dock areas shall be fenced and screened, pursuant to the requirements of Sections 3.15.

- b. If the site is immediately adjacent to a residential district, it shall comply with the requirements of Section 3.13.
  - c. Storage yards associated with home and garden centers, lumber yards, and nurseries shall be completely obscured from view from public roads.
3. Performance standards:
- a. Not more than fifty (50) percent of the parcel shall be covered by buildings and outdoor storage of materials and goods.
  - b. Storage or display of goods and materials shall not occur in the required yards.
  - c. No public address system shall be audible from any abutting residential parcel.
  - d. All lighting shall be shielded from adjacent roads and residential districts.
  - e. All flammable liquids, solvents, cleaners, and other hazardous substances capable of contaminating groundwater shall be stored within the building, and secondary containment measures shall be installed and utilized to prevent spilled materials from contacting the ground.
  - f. The storage of any soil, fertilizer, or similar loosely packaged materials shall be sufficiently contained to prevent any adverse affect on adjacent properties, water bodies, wetlands, and drainage-ways.
  - g. All areas subject to vehicular use shall be paved with a durable dust-free surface, with appropriate bumper-guards where needed.
  - h. In the case of auto sales:
    - 1.) No vehicles which are inoperative shall be stored on the premises.
    - 2.) All repair, assembly, disassembly, or maintenance of vehicles shall occur within a closed building except minor maintenance, including tire replacement, adding oil, and wiper replacement.
    - 3.) For facilities with new underground storage tanks, the site shall be three-hundred (300) feet from any residential well, eight-hundred (800) feet from a non-community public water well and two-thousand (2,000) feet from any public water well.

#### **Section 17.48 Reserved**

#### **Section 17.49 Public Facilities**

- 1. Public facilities include: public parks, administrative offices, fire and police facilities, libraries, museums, public recreational centers, and storage areas for public equipment.
- 2. Site Requirements:
  - a. No building shall be closer than fifty (50) feet to any property or road right-of-way line.
  - b. No more than thirty (30) percent of the gross lot area shall be covered by buildings.
  - c. Lot area and width shall not be less than that specified for the district in which the proposed use would be located.

- d. No building shall be erected to a height greater than that permitted in the district in which the proposed use is located.

3. Buffering Requirements:

- a. Where mechanical equipment is located in the open air, it shall be screened from the surrounding residential area by suitable plant material and it shall be fenced with a chain link fence five (5) feet in height.
- b. All buildings housing mechanical equipment shall be landscaped and maintained in accordance with the requirements of Section 3.13.

4. Performance Standards:

- a. All buildings shall be harmonious in appearance with the surrounding area and shall be similar in design and appearance to other buildings on the same development site.
- b. No adverse environmental conditions such as noise, air pollution, lighting, or other disruptions shall be allowed.
- c. Outdoor storage areas shall be located a minimum of fifty (50) feet from any residentially zoned property.
- d. Facilities shall provide off-street parking and passenger loading areas at least twenty-five (25) feet from residential lot lines.
- e. Sites shall be periodically cleared of debris so that litter does not accumulate on adjacent properties.
- f. Any sports fields shall be a minimum of one-hundred (100) feet from any lot line and two-hundred (200) feet from any dwelling.

**Section 17.50 Public Utility Buildings**

1. Public utility and service buildings and uses (without storage yards) shall be permitted when operating requirements necessitate the location of said building within the district in order to serve the immediate vicinity.
2. No building and/or structure shall be located in any required yard setback.

**Section 17.51 Reserved**

**Section 17.52 Recreation, ~~(Commercial Indoor)~~**

1. The minimum lot size shall be one (1) acre.
2. Sites shall be periodically cleared of debris so that litter does not accumulate on adjacent properties.
3. Said recreation facility shall be for the exclusive use of the membership, as conditioned above and their guests, as well as open to the public for a fee.
4. Provision for the land and/or buildings shall have been identified in the original platting of the land so that all subsequent lot purchasers were duly placed on notice. Prior to approval of the special land use, the County shall determine that such affected area residents were able to determine that such

facilities were a part of the original development scheme. Evidence to this effect would include a provision in the recorded plat.

5. In those instances where the proposed facility is intended to serve areas beyond the recorded subdivision, the proposed site shall have one (1) property line abutting a major road, and the site shall be so planned as to provide ingress and egress directly from said hard-surfaced road or from an approved shared access drive to such road.
6. Front, side, and rear yards shall be at least eighty (80) feet on those sides adjacent to residential districts. Front, side, and rear yards shall not less than ten (10) feet on those sides adjacent to non-residential districts. Such required yard setback shall be landscaped in trees, shrubs, grass, and terrace areas. All such landscaping shall be maintained in a healthy condition.
7. Off-street parking shall be provided so as to accommodate not less than one-half of the family and individual membership or as otherwise provided. Prior to the approval of a special land use, bylaws of the organization shall be provided in order to establish the membership involved for computing the off-street parking requirements. Off-street parking shall be screened from adjacent residential districts in accordance with Article III General Provisions of this Zoning Ordinance.
8. There shall be no parking or structures permitted in the required front, side, and rear yards, except for required entrance drives and screening walls used to obscure the use from abutting residential districts.
9. All lighting shall be shielded from adjacent roads and residential districts.
10. Central loudspeakers/paging systems are prohibited adjacent to residential property.
11. The intensity level of sounds shall not exceed seventy (70) decibels at the lot line of industrial uses; sixty-five (65) decibels at the lot line of commercial uses and fifty-five (55) decibels at the common lot line when adjacent to residential uses and residential districts. The sound levels shall be measured with a type of audio output meter approved by the United States Bureau of Standards.
12. The clubhouse design is to be of a residential character and exterior materials are to be primarily wood or brick.
13. When a swimming pool is constructed under this section of the Zoning Ordinance, said pool area shall be provided with a protective fence five (5) feet in height, and entry shall be provided by means of a controlled gate.
14. All plans for storm sewers, sanitary sewers, water, and other utilities shall be reviewed and approved by the County designated Engineer.

#### **Section 17.53 Recreation, ~~(Commercial Outdoor)~~**

1. The site shall be located on a hard-surfaced road.
2. Minimum site area shall be three (3) acres for: flea markets, batting cages, skateboard parks, paintball, and miniature golf.
3. Minimum site area shall be ten (10) acres for: amphitheater, amusement parks, and resorts. Minimum lot width shall be six-hundred (600) feet.
4. Minimum site area shall be twenty (20) acres for all other listed commercial recreation uses. Minimum lot width shall be six-hundred (600) feet.
5. No building or spectator seating facility shall be located within one-hundred (100) feet of a lot line.



6. Front, side, and rear yards shall be at least eighty (80) feet. The first fifty (50) feet of such yards shall not be used for off-street parking and shall be landscaped.
7. Whenever parking areas are adjacent to land zoned or used for residential purposes, a five (5) foot wall or greater shall be provided along the sides of the parking area adjacent to such residential land.
8. Race tracks and drive-in theaters shall be enclosed around the entire periphery with an obscuring screen fence at least eight (8) feet in height. Fences shall be of permanent, finished construction, painted, or otherwise finished neatly, attractively, and inconspicuously, and shall be maintained in that condition.
9. The applicant shall provide evidence of compliance with all appropriate federal, state, county, and local permits as appropriate.
10. Facilities shall provide off-street parking and passenger loading areas.
11. Adequate stacking area shall be provided for vehicles waiting to enter the lot.
12. Facilities which have a participant capacity greater than five-hundred (500) people shall provide letters of review from the County Sheriff and Mason County Road Commission with respect to the proposed project.
13. No fugitive lighting shall escape from the site on to adjacent properties or rights-of-way.
14. Excessive dust, noise, traffic, and trespassing shall not be inflicted on adjacent properties.
15. Outside storage shall be screened.
16. Landscaped areas shall be maintained in a healthy condition pursuant to Section 3.13.
17. Sites shall be periodically cleared of debris so that litter does not accumulate on adjacent properties.
18. In no case shall a recreational accessory use pre-date the installation and operation of the principal use. When the principal use ceases to operate, the accessory use shall immediately cease.
19. Accessory commercial activities shall be limited to those necessary to serve only the seasonal patrons of the facility.
20. Not more than sixty-five (65) percent of the land area shall be covered by recreational uses.
21. Central loudspeakers/paging systems are prohibited adjacent to residential property.
22. The intensity level of sounds shall not exceed seventy (70) decibels at the lot line of industrial uses; sixty-five (65) decibels at the lot line of commercial uses and fifty-five (55) decibels at the lot line of residential uses. The sound levels shall be measured with a type of audio output meter approved by the United States Bureau of Standards.
23. No temporary sanitary facility or trash receptacle shall be located within two-hundred (200) feet of an existing residence on an adjacent property.
24. All sanitary facilities shall be designed and constructed in strict conformance with Mason County Health Department regulations.
25. Adequate trash receptacles shall be provided, as needed throughout the site.

26. Drive-in theater screens shall not face any public road and shall be so located as to be out of view from any hard-surfaced road.
27. Operating hours for all uses shall be determined by the Planning Commission based on the nature of the use and the nuisance potential to adjoining property owners.

#### **Section 17.54 Recreational Vehicle Campsite Condominiums**

1. Recreational Vehicle Campsite Condominiums shall comply with the following standards:
  - a. The minimum area necessary for eligibility as a Recreational Vehicle Campsite Condominium shall be not less than one-hundred twenty (120) contiguous acres of land. An owner of less than one-hundred twenty (120) contiguous acres of land may apply for special use approval under the provisions of this section if the land subject to the application is adjacent to an existing Recreational Vehicle Campsite Condominium.
  - b. Accessory uses which may be permitted in a Recreational Vehicle Campsite Condominium include indoor and outdoor recreation facilities, coin-operated laundry, and small scale retail establishments for serving occupants of the Recreational. Vehicle Campsite Condominium only. All such uses shall be subject to Mason County Zoning and Building Codes.
  - c. Accessory uses which may be permitted on individual condominium units may include, but shall not be limited to, detached garages, detached screen porches, lawn buildings, gazebos, and carports. All such uses shall be subject to Mason County Zoning and Building Codes.
  - d. Each condominium unit within a Recreational Vehicle Campsite Condominium shall have a water and sanitary system designed, constructed and approved in accordance with applicable Mason County Health Department standards and regulations. These systems may include individual on-site wells and septic systems.
  - e. Minimum yard requirements and building setbacks from the exterior boundaries of individual campsite condominium units shall comply with regulations applicable in the zoning district in which the Recreational Vehicle Campsite Condominium is located.
  - f. Common buildings and structures on individual condominium units shall not exceed one (1) story or sixteen (16) feet in height, whichever is less.
  - g. A driveway providing access to a Recreational Vehicle Campsite Condominium from a public or private road shall not be located closer than five-hundred (500) feet to any other driveway providing access to the same or to another Recreational Vehicle Campsite Condominium. Such driveways, when opposite sides of a public or private street, must be aligned end to end, or be spaced at least two-hundred fifty (250) feet apart.
  - h. Each condominium unit shall have two (2) off street parking spaces.
  - i. No more than one (1) recreational vehicle may be permanently placed on any single condominium unit. Additional or "Companion" recreational vehicles may be permitted on condominium units having an area of 21,780 square feet and larger.

#### **Section 17.55 Recycling (Light) (4-20-05)**

1. Light Recycling, as defined in this ordinance, shall be permitted in the Commercial District by special use permit issued by the Planning Commission. The Planning Commission will consider the following conditions in their review of the permit application:

- a. All ingress and egress shall be directly from a hard-surfaced road.
  - b. The activity shall not have a detrimental effect on nearby residents by virtue of noise, smoke, vibration, dust, debris, or other emissions.
  - c. All recycling activities shall be confined within a completely enclosed building.
  - d. Storage of materials shall be confined within a completely enclosed structure.
  - e. The minimum lot or parcel size shall be two (2) acres.
  - f. Measures shall be taken to ensure that materials will not litter the site during loading or unloading of raw or finished materials.
2. Whenever the installation abuts a residential district, a transition strip at least one-hundred (100) feet in width shall be provided between the enclosed area and the adjoining district. Such strip shall contain plants, grass, trees, and/or structural screens of a type recommended by the Planning Commission)

#### **Section 17.56 Recycling (4-20-05)**

Recycling, as defined in this ordinance, shall be permitted in the Industrial District by special use permit issued by the Planning Commission. The Planning Commission will consider the following conditions in their review of the permit application:

- 1. Location Requirements:
  - a. Ingress and egress to the facility shall be only from a hard-surfaced road.
- 2. Site Requirements:
  - a. The minimum lot or parcel size shall be three (3) acres.
  - b. Setbacks:
    - 1.) All enclosed areas shall be set back at least sixty (60) feet from any front lot line.
    - 2.) All enclosed areas shall not be located closer than one hundred (100) feet from the border of the Residential District.
  - c. 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.
- 3. Buffering Requirements:
  - a. Whenever the installation abuts a residential district, a transition strip at least one hundred (100) feet in width shall be provided between the fenced periphery of the site and the adjoining district. Such strip shall contain plants, grass, and or other natural screening materials approved by the Planning Commission.
  - b. A solid fence, wall, or earthen berm at least eight (8) feet in height but no higher than ten (10) feet shall be provided around the periphery of the site to screen said site from surrounding property. Such fence, wall or berm shall be of sound construction, painted, or otherwise finished neatly and inconspicuously. Such fence, wall, or berm shall be of permanent finish and constructed with materials approved by the Planning Commission.

4. Performance Standards:

- a. All activities shall be confined within the fenced periphery of the site. There shall be no stocking of material above the height of the fence, wall, or berm, except that moveable equipment used on the site may exceed that height. No equipment, material, signs, or lighting shall be used or stored outside the enclosed area.
- b. Storage of materials shall not occur in the front of the building.
- c. No open burning shall be permitted.
- d. All roads, driveways, parking lots, and loading and 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.
- e. Any materials listed on the Michigan Critical Materials Register (gasoline, freon, solvents, etc.) require secondary containment and a Pollution Incident Protection Plan filed with the Michigan Department of Natural Resources.

5. Fugitive Dust, Noxious Odors, Noise, Vibration, Light, and Blowing Debris.

- a. The operation of a recycling facility shall not result in off-site deterioration of air quality or cause injurious effects to human health, safety, and welfare. All recycling facilities shall be designed, constructed and operated so that fugitive dust, noxious odors, noise, vibration, light, and blowing debris are controlled and do not cause off-site problems or nuisances.
- b. The following performance standards shall be enacted in an effort to control noxious odors, noise, vibration, and light so that they do not cause off-site problems and nuisances:
  - 1.) Noise. The pressure level of sounds shall not exceed the following decibel levels when adjacent to the following types of uses:

**SOUND LEVEL ADJACENT USE**

65dBA Residential/Agricultural  
75dBA Commercial/Office  
80dBA Industrial/Other

**WHERE MEASURED**

Boundary Property Line  
Boundary Property Line  
Boundary Property Line

The sound levels shall be measured using a weighted decibel measurement and with a type of audio out meter approved by the National Institute of Standards and Technology. Objectionable noise as determined by the Board, of an intermittent nature, or high frequency sounds, even if falling below the aforementioned decibel readings, shall be muffled so as not to become a nuisance to adjacent uses.

- 2.) Vibration. All machinery shall be so mounted and operated as to prevent transmission of ground vibration exceeding a displacement of 0.003 inches as measured at any property line of its source.
- 3.) Light. All lighting shall be shielded from adjacent roads and residential districts.
- c. The applicant shall submit with the site plan an operations plan to minimize the off-site occurrences of fugitive dust, noxious odors, vibrations, light, and blowing debris. This plan shall include such measures as: restricting the daily work hours, refusing to accept certain materials, or other appropriate measures. This plan shall be approved by the Planning Commission.

6. If there is evidence that performance standards have not been met and/or that a problem or nuisance condition exists as determined by the Zoning Administrator, despite compliance with the operation plan, then a contingency plan shall be developed by the operator. This contingency plan shall be submitted within ten working days from the date that the Zoning Administrator notifies the operator. This plan may demonstrate to the satisfaction of the Zoning Administrator that the problem will be abated within two (2) weeks.

#### **Section 17.57 Research Facilities**

1. High technology research facilities shall be, by their nature, considered clean, quiet, and free from objectionable or dangerous nuisance or hazard.
2. Such high technology research facilities shall be conducted within a completely enclosed building.

#### **Section 17.58 Retail Sales**

1. The Planning Commission may limit hours of operation of the nonresidential use to protect the character of the neighborhood.
2. The applicant shall demonstrate how the proposed Retail Sales establishment will be a substantial amenity for Mason County and how the proposed special use meets the intent of the GB District.
3. The proposed special use shall be compatible with adjacent land uses, the natural environment, and the capacities of affected public services and facilities. The applicant shall demonstrate that the proposed special use will not constitute a nuisance to future inhabitants or users of land in the vicinity.
4. For a new development, functional open space shall be provided and shall be consolidated, wherever possible.
5. Any dumpsters on the site shall be screened on four sides by an opaque enclosure at least 6 feet in height equipped with a lockable gate so the dumpster is not visible from any lot line.

#### **Section 17.59 Sand and Gravel Extraction Operations**

1. Sand or gravel extraction, as defined in this ordinance, shall be permitted in any district by special use permit issued by the Planning Commission. The application shall include a development plan and rehabilitation plan. It shall first be submitted to the Planning Commission. The following information shall be submitted:
  - a. SITE PLAN. A site plan which shall include the following information:
    - 1.) North point, scale, and date.
    - 2.) Extent of the area to be excavated.
    - 3.) Location, width, and grade of all easements or right-of-way on or abutting the property.
    - 4.) Location of all structures on the property.
    - 5.) Location of all areas on the property subject to inundation or flood hazard, and the location, width, and directions of flow of all watercourses and flood control channels that may be affected by the excavation.
    - 6.) Processing and storage areas.
    - 7.) Proposed fencing, gates, parking, and signs.

- 8.) Ingress-egress roads, plus on-site roads, and proposed surface treatment and means to limit dust.
  - 9.) A map showing access routes between the property and the nearest arterial road.
- b. REHABILITATION PLAN. A rehabilitation plan which shall include:
- 1.) A statement of planning rehabilitation, including methods of accomplishment, phasing, and timing.
  - 2.) A plan indicating: the final grade of the excavation; any water features including in the rehabilitation and methods planned to prevent stagnation and pollution; landscaping or vegetative planting; and areas of cut or fill. This plan, if clearly delineated, may be included with the site plan. For excavation application, the final grade shall mean the approximate planned final grade.
  - 3.) A phasing plan, if the excavation of the site is to be accomplished in phases. This plan shall indicate the area and extent of each phase and the approximate timing of each phase.
  - 4.) The method of disposing of any equipment or structures used in the operation of the excavation upon completion of the excavation.
  - 5.) The name, address, and signature of the property owners and applicant.
  - 6.) A written legal description or record of survey of the property;
  - 7.) Proof of a bond, cash deposit, or deposit of negotiable securities and public liability insurance shall be provided to the Planning Commission to ensure conformance to County operational and reclamation standards.
- c. REVIEW STANDARDS FOR APPROVAL. The Planning Commission may consider the following factors in their review of the permit application:
- 1.) The need for the removal, and alternate solutions not requiring removal.
  - 2.) The impact of the removal process and methods of removal on adjoining areas.
  - 3.) The extent and amount of removal of valuable surface topsoil, and destruction of land uses by the removal.
  - 4.) The increased hazards to neighbors, water, land, or air.
  - 5.) The proposed plan complies with existing applicable County and State waste management plans and standards.
  - 6.) Whether the spirit and intent of the objectives of this Zoning Ordinance would be preserved or promoted.
- d. PERMIT TO FILL. The Zoning Administrator will issue the permit to fill land, after it has been determined:
- 1.) That such filling will not cause surface water to collect or to run off onto adjoining lands contrary to normal and natural drainage.
  - 2.) That such fill material will not unreasonably cause blowing dust, grime, fumes, or odors.

- 3.) That such fill will not decay or rot in such a manner as to cause holes or soft areas to develop in the lands so filled.
- 4.) That, upon completion of such fill, the property will be left in such a condition that it may be properly used for the use designated for the area in the Zoning Ordinance and maps.
- 5.) That such fill shall not operate to inhibit light and air to the adjoining properties.
- 6.) That such filling operations will not be conducted before 7:30 a.m.. or after 7:00 p.m., local time.
- 7.) That the transportation of such fill material will be made in trucks or vehicles properly suited to such transport so that it will not be spread upon the highways and roads of the County.
- 8.) That such fill will not cause any hazard or fire and that combustible materials shall not become any part of the fill material.
- 9.) That the filling will be carried out under the terms and conditions above set forth, and that the Administrator may, if concerned about the applicants fulfilling the above conditions, require a performance bond in favor of the County and conditioned upon the applicant faithfully carrying out all of the terms and conditions of the permit.

#### **Section 17.60 Sawmills, planning mills, wood product plants**

#### **Section 17.61 Schools, Colleges and Universities, Commercial Trade**

1. All ingress and egress shall be directly onto a hard-surfaced road.
2. No buildings or other use of land, except landscaped passive areas, shall be situated within one-hundred (100) feet of any private residence not a part of the institution of higher learning.
3. Land not utilized for buildings, parking, etc., shall be landscaped or kept in a natural groundcover.
4. All parking shall be located in the side or rear yard.

#### **Section 17.62 Schools (Public, Private or Parochial, Elementary or Secondary)**

1. Location Requirements:
  - a. Ingress and egress to the site shall be only from a hard-surfaced road.
  - b. A preferential location is one which would offer natural or man-made barriers or buffer zones that would lessen the effect of intrusion of the institution on adjoining uses.
2. Site Requirements:
  - a. The minimum lot or parcel size for schools shall be ten (10) acres.
  - b. No more than twenty-five (25) percent of the site area shall be covered by buildings.
  - c. No more than sixty (60) percent of the site shall be covered with impervious surface. The remainder shall be suitably landscaped.

- d. Service areas and facilities, and outdoor recreation facilities, shall not be located within one-hundred (100) feet of a residential district or use.
  - e. Parking areas shall not be located within fifty (50) feet of a residential district or use.
  - f. Student drop-off and vehicular turn-around facilities shall be provided on the site so that vehicles will not interfere with traffic.
  - g. No parking shall be allowed within the minimum front yard setback of fifty (50) feet.
  - h. The principal structure shall be no closer than seventy-five (75) feet from any lot line or right-of-way.
3. Buffering Requirements:
- a. Parking areas shall be screened from surrounding residential areas by a wall or fence, in combination with suitable plant materials as specified in Section 3.13 and Article XIX of this Ordinance.
  - b. All lighting shall be shielded from adjacent roads and residential districts.
4. Performance Standards:
- a. All activities conducted on the site shall conform to county, state, and federal laws.

### **Section 17.63 Single Family Detached Dwelling**

1. A new single family detached dwelling within the C-2 district shall be set back not less than one hundred fifty (150) from the front property line, if located on a major thoroughfare.
2. The Planning Commission may require the single family detached dwelling to place a privacy fence or vegetative barrier between any existing commercial use and the single family detached dwelling.
3. The applicant shall justify that placing a new single family detached dwelling within the C-2 district meets the intent of the C-2 district.

### **Section 17.64 Truck Terminal or Distribution Center**

1. A minimum of five (5) acres is required.
2. Site must be accessed from a hard surfaced road.
3. Maximum number of trailers and trucks must be indicated on the site plan and truck parking spaces shall be clearly indicated.
4. Parking and storage of trailers and trucks shall occur in the side or rear yard.
5. A permanent structure must be located on the site.
6. Parking of commercial vehicles shall not occur within any required yard.
7. All driveways and parking areas shall be paved with a durable, dust free surface such as asphalt or concrete.



8. When a lot line is adjacent to or within two hundred (200) feet of a residential land use, vegetative or privacy fence screening shall be installed pursuant to Section 3.15.
9. Truck and trailer parking areas shall be shielded from the main roads servicing the facility with vegetative or privacy fence screening approved by the Planning Commission.
10. Parking or storage of trailers, semi-trailers, or straight trucks shall not be permitted within seventy five (75) feet of any lot line abutting a residential land use.
11. Incidental or minor maintenance and repairs of truck vehicles may be conducted indoors; provided, that the floor area dedicated to such minor maintenance and repair shall not comprise more than twenty (20%) percent of the total floor area of the permanent structure on the site.

#### **Section 17.65 Truck Trailer Drop Yard (3-28-07)**

1. A minimum of five (5) acres is required.
2. On-site fuel tanks are not permitted.
3. Site must be accessed from a hard surfaced road.
4. Maximum number of trailers and trucks must be indicated on the site plan.
5. Parking and storage of trailers and trucks shall occur in the side or rear yard.
6. A permanent structure must be located on the site.
7. Parking of commercial vehicles shall not occur within any required yard.
8. All driveways and parking areas shall be paved with a durable, dust free surface such as asphalt or concrete.
9. When a lot line is adjacent to or within two hundred (200) feet of a residential land use, vegetative or privacy fence screening shall be installed pursuant to **Section 3.15.**
10. Truck and trailer parking areas shall be shielded from the main roads servicing the facility with vegetative or privacy fence screening approved by the Planning Commission.
11. Parking or storage of trailers, semi-trailers, or straight trucks shall not be permitted within seventy five (75) feet of any lot line abutting a residential land use.
12. The storage of goods or materials, whether outdoors or in an enclosed building, and the transferring of goods between vehicles, including if temporarily stored in a building, is not allowed.
13. When the development is more than two (2) acres in size a greenbelt planting screen is required between the main road and the permanent structure, as required by **section 3.13.**
14. No maintenance of vehicles shall occur on the site other than minor repairs such as changing headlights or windshield wipers.

#### **Section 17.66 Two-Family Dwellings**

1. Scale elevation drawings depicting architectural features shall be provided. A two-family dwelling shall be designed to look like a single-family dwelling and shall include architectural details found on the majority of dwellings in the neighborhood, so that the two-family dwelling is consistent with the aesthetic character of existing buildings.

2. A two-family dwelling shall front on and be accessed primarily from a collector street.

#### **Section 17.67 Veterinary Clinics, ~~including Small Animal Hospitals~~**

1. All ingress and egress to the site shall be directly from a hard-surfaced road.
2. The minimum area shall be two (2) acres.
3. Buildings wherein animals are kept, and/or any exercise areas shall not be located closer than one-hundred (100) feet to any property line.

#### **Section 17.68 Wineries**

1. A winery shall include an on-site vineyard that is at least five (5) acres in land area.
2. A wine-tasting/retail room shall not exceed 30% of the total square footage of the wine production structure.
3. The Planning Commission may place restrictions on the number of special events that can occur in any given year and the time of day those events can occur, to protect the integrity of adjacent neighborhoods and lands. The Planning Commission may also limit the number of people who can attend any special event and may request a traffic analysis.

#### **Section 17.69 Wireless Communication Support Facilities**

1. Wireless Communication Antennas
  - a. In order to encourage co-location and to minimize the number of Wireless Communication Support Facilities (WCSFs) within the County, Wireless Communication Antennas (WCAs) shall be considered a permitted accessory use in all non-residential Zoning Districts when placed on or attached to any structure which constitutes a principal use, including existing WCSFs, provided that any WCA shall not extend more than twenty (20) feet above the tallest portion of the structure on or to which it is attached. Provided further that the height of any WCA shall not exceed one-hundred (100) feet unless:
    - 1.) Located on a lawfully existing or approved WCSF; or
    - 2.) Located on a structure existing prior to the adoption of this regulation; or
    - 3.) Located on a structure which has received a height variance.
  - b. An application to install a WCA in a non-residential zoning district shall be required to receive approval from the County Planning Commission.
  - c. An application to install a WCA in a residential zoning district shall require a review by the County Planning Commission, and shall include but not be limited to the following:
    - 1.) Evidence that adequate servicing cannot be attained from the placement of a WCA in a non-residential zoning district.
  - d. WCAs shall require no personnel on the premises except as necessary for maintenance and repair.
  - e. If a WCA requires an accessory equipment storage structure, it shall not be greater than fifteen (15) feet in height and shall meet all zoning requirements.

- f. WCAs shall not be allowed on any site used as a single-family dwelling unit.
- g. All WCAs shall be designed to blend into or meet the aesthetic character of the principal (primary) structure where reasonably practical taking into consideration the location of the WCA and the line of sight angle and distance from the right-of-way and neighboring uses.
- h. No accessory equipment structure or area shall be allowed in any rights-of-way which creates a public safety hazard.
- i. This section shall not exempt the applicant from such other government review and permitting procedures (i.e., FCC, FAA, etc.).

## 2. Wireless Communication ~~Support~~ Facilities (WCSF)

- a. All WCSF shall be constructed in compliance with all applicable construction codes, which include the Electronic Industries Association/Telecommunications Industry Association (EIA/TIA) Structural Standards of Steel Antenna Towers and Antenna Supporting Structures.
- b. The WCSF shall comply with all applicable Federal Aviation Administration (FAA) requirements.
- c. The WCSF shall not be used for advertising purposes and shall not contain any signage except signage which shall show the identity of the service provider and emergency telephone numbers.
- d. The WCSF may be located on a zoning lot containing other principal uses. The WCSF may be located within an area smaller than the minimum lot size of the applicable zoning district provided the zoning lot complies with the applicable minimum lot size for the existing principal use or is a legal nonconforming or grandfathered lot. The area within which the WCSF is located shall be the area subject to the requirements of this section, rather than the entire zoning lot, unless otherwise provided herein.
- e. The WCSF shall meet all requirements of the zoning district in which it is located which are not inconsistent with this section. Minimum yard requirements shall be measured from the boundary of the zoning lot to the closest portion of the WCSF or the accessory equipment structure or storage area, whichever is closer.
- f. The WCSF shall have a landscaped greenbelt so that the base of the WCSF and accessory equipment structure or storage area shall be screened from any right-of-way or adjacent properties. A greenbelt, as selected by the Zoning Administrator or Planning Commission, shall be constructed around the perimeter of a WCSF. Screen fencing shall also be required for public safety reasons. A chain linked or a solid wood fence at least six (6) feet in height shall be erected entirely around any communication tower and any related support facilities being utilized for commercial purposes. "No Trespassing" signs shall be posted around the wireless communication facility with a telephone number of a person to contact in the event of an emergency.
- g. Site lighting shall consist of day-night lighting only.
- h. The construction of the WCSF shall be of monopole design unless it can be demonstrated that such design is not feasible to accommodate the user or co-location.
- i. The application shall contain information showing the geographic search area within which the proposed WCSF must be located and shall also provide locations of all structures of similar height within and adjacent to the search area.

- j. If co-location is not part of the application, then the applicant shall provide evidence as to why co-location is not possible.
- k. This section shall not exempt the applicant from such other government review and permitting procedures (i.e., FCC, FAA, etc.).
- l. WCSFs shall not have a shiny or metallic finish.
- m. The applicant is required to disclose whose wires will be connecting proposed towers so the County can assess any separate franchise fees.

### 3. Replacement of Existing WCSF

An existing WCSF which was lawful at the time of its construction may be replaced for purposes of accommodating co-location of additional WCAs or otherwise provided that:

- a. The replacement WCSF shall not exceed a total height of one-hundred and fifty (150) feet or, if the existing WCSF has an approved height greater than one-hundred and fifty (150) feet, the replacement WCSF shall not exceed the approved height.
- b. The replacement WCSF shall be located within the same zoning lot as the existing WCSF and shall be located so as to maximize compliance with existing minimum yard requirements.
- c. The applicant shall cause the existing WCSF to be removed within ninety (90) days of completion of the replacement WCSF and the relocation or installation of the WCA. In any event, the existing WCSF shall be removed within one-hundred and eighty (180) days of the County's final construction inspection of the replacement WCSF.
- d. If the location of the replacement WCSF is such that the existing WCSF must be moved before the replacement WCSF is constructed, temporary portable antennae support facilities may be used, but must be removed within thirty (30) days of the completion of the replacement WCSF and the relocation or installation of the WCA. In any event, the temporary portable antennae facilities must be removed within sixty (60) days of the County's final construction inspection of the replacement WCSF.
- e. The installation of a replacement WCSF in any zoning district must be reviewed by the Planning Commission which shall approve such requests that meet the requirements of this section.

### 4. Review Criteria for all new WCSFs, except replacement WCSFs

- a. A new WCSF shall not be approved unless it can be demonstrated by the applicant that there is a need for the new WCSF which cannot be met by placing WCA on an existing WCSF or on other structures or replacement of an existing WCSF. Information concerning the following factors shall be considered in determining that such need exists:
  - 1.) Insufficient structural capacity of existing WCSFs or other suitable structures and infeasibility of reinforcing or replacing an existing WCSF;
  - 2.) Unavailability of suitable locations to accommodate system design or engineering on existing WCSF or other structures;
  - 3.) Radio frequency interference or other signal interference problems at existing WCSF or others structures;
  - 4.) Other factors which demonstrate the reasonable need for the new WCSF;

- 5.) The denial of the application for a proposed WCSF will result in unreasonable discrimination among providers of functionally equivalent personal wireless communication services and/or will have the effect of prohibiting the provision of personal wireless communication services;
  - 6.) The refusal of owners or parties who control WCSFs or other structures to permit a WCA to be attached to such WCSFs or structures.
- b. WCSFs shall be designed to have sufficient structural capacity to allow for three (3) providers to be located on the structure. The wireless communication facility shall also be designed to show that the applicant has sufficient space on its site plan for an equipment building large enough to accommodate three (3) users. If an equipment building is initially constructed to accommodate only one (1) user, space shall be reserved on site for equipment building expansions to accommodate three (3) users.
  - c. The applicant must include a statement in the application of its good faith intent to allow the co-location of the WCA of other entities, provided that the cost of modifying the WCSF to accommodate the co-location WCA is borne by the co-locating entity, and that all requests for co-location of wireless communication facilities will be responded to within thirty (30) days from the date of receipt of written request.
  - d. As an additional condition of issuing the permit to construct and operate the tower, the owner/operator of the tower is required to sign a statement that all disputes with future providers concerning co-location and the terms and conditions of co-location shall be submitted to commercial arbitration under a system selected by the parties, but if the parties are unable to agree, then under the auspices of the Commercial Arbitration Provisions of the American Arbitration Association.
  - e. The applicant shall send a written notice to all potential users of the new WCSF offering an opportunity for co-location. The list of potential users shall be provided by the County based on those entities who have requested approval of WCSF in the past, current FCC license holders, and any other entities requesting to be included on the list. Copies of the notice letters shall be provided to the County at the time the application is filed.
  - f. New WCSFs shall meet the following additional criteria:
    - 1.) The WCSF shall not exceed one-hundred and fifty (150) feet in height;
    - 2.) All WCSFs over one-hundred (100) feet in height shall be designed for the co-location of three additional WCAs, and shall therefore also be able to accommodate additional equipment storage structures.
    - 3.) All WCSFs shall be setback a minimum of two-hundred and fifty (250) feet from any residential zoning districts.
    - 4.) The installation of a WCSF must be reviewed by the Planning Commission which shall approve such WCSFs that meet the requirements of this section. Such review by the Planning Commission shall be without notice.
  - g. Application Requirements for New WCSFs
    - 1.) A site plan prepared in accordance with Article XVIII of this ordinance (Site Plan Review Procedures) shall be submitted, showing the location, size, screening, and design of all buildings and structures, including fences, and the location and size of outdoor equipment, and the location, number, and species of proposed landscaping.

- 2.) The site plan shall also include a detailed landscaping plan where the support structure is being placed at a location which is not otherwise developed. The purpose of landscaping is to provide screening for the structure base, accessory buildings, and enclosure. In all cases, there shall be shown on the plan fencing which is required for protection of the support structure and security from children and other persons who may otherwise access facilities which may be unsafe.
- 3.) The application shall include a certification by a State of Michigan licensed and registered professional engineer of the applicant with regard to the manner in which the proposed structure will fall, which certification will be utilized, along with other criteria such as applicable regulation for the district in question, in determining the appropriate setback to be required for the structure (WCSF) and other facilities.
- 4.) The application shall include a description of security to be posted at the time of receiving a zoning permit for the facility to ensure removal of the facility when it has been abandoned or is no longer needed, as required in Subsection 6. In this regard, the security shall be in the form of cash, surety bond, letter of credit, or an agreement in a form approved by the County Board of Commissioners establishing the land in question as security for removal.
- 5.) The application shall include a map showing existing and known proposed WCFs within the County, and further showing existing and known WCFs within areas surrounding the borders of the County in the location, and in the area, which are relevant in terms of potential co-location or in demonstrating the need for the proposed facility.
- 6.) The name, address and phone number of the person to contact for engineering, maintenance, and other notice purposes. This information shall be updated annually during all times the WCF is on the premises.

#### 5. Additional Criteria for Special Approval Condition Use and Review

- a. The installation of a WCSF in any residential zoning district shall be located on lots or parcels of not less than two (2) acres;
- b. As a condition of issuing a permit to place a WCSF in a Residential Zoning District, the applicant is required to provide proof that no suitable locations exist within any other "permitted use" or "conditional use" areas determined by this Ordinance.
- c. If the WCSF is not entirely surrounded by commercial or industrial uses, a written justification of the need for this site showing why other non-residential sites are not suitable;
- d. The Planning Commission may require a visual/line of site analysis to enable the County to assess impacts. Such analysis may require the applicant to provide visualization of the WCSF on-site which may include graphic representations or other acceptable methods to demonstrate the visualization.

#### 6. Removal of Abandoned WCSFs

Any WCSF which is abandoned shall immediately be removed or demolished. For the purposes of this section, abandoned shall mean that no WCA or other commercial antenna has been operational and located on the WCSF for 180 days or more. Where the removal or demolition of an abandoned WCSF has not been lawfully completed within sixty (60) days of the applicable deadline, and after at least thirty (30) days written notice, the County may remove or secure the removal of the facility or required portions thereof, with its actual cost and reasonable administrative charge to be drawn or collected from the security posted at the time application was made for establishing the WCF.

#### 7. Variances and Appeals

Variances from this section may be requested from the Zoning Board of Appeals.

8. Certification of Registered Engineer

The County may require a review by an independent registered engineer engaged by the County and paid for by the applicant for the construction of wireless communication towers. Among other things, the Engineer may review and approve the written certification of the applicant's Engineer and may review and approve the applicant's studies showing the necessity for and location of the tower; and may review and approve the structural integrity, electrical integrity and electrical safeness of the wireless communication facility in its projected uses so as to assure the protection of the health, safety and welfare of the County residents.

**Section 17.70 Utility Grid Wind Energy Systems**

1. All conversion systems shall be equipped with manual and automatic overspeed controls to limit rotation of blades to speed below the designed limits of the conversion system. The certified registered engineer and authorized factory representative shall certify that the rotor and overspeed control design and fabrication conform to good engineering practices. No changes or alterations from certified design shall be permitted unless accompanied by a certified registered engineer's and the authorized factory representative's statement of certification.
2. All electrical compartments, storage facilities, wire conduit and interconnections with utility companies will conform to national and local electrical codes.
3. A visible warning sign of "High Voltage" will be placed at the base of all conversion systems. The sign shall have at a minimum six (6) inch letters with 3/4-inch stroke. This sign shall include a 24 hour emergency phone number.
4. All towers or poles must be unclimbable by design or protected by anti-climbing devices such as:
  - a. Fences with locking portals at least six (6) feet high;
  - b. Anti-climbing devices twelve (12) feet from base of pole;
5. Tubular towers are required.
6. Engineering data concerning construction of the tower base must be submitted with an application and site plan. The base of the wind turbine must be constructed in such a manner that upon removal of said tower, the soil will be restored to its original condition to a depth of 4 feet.
7. "Up wind turbines" are required.
8. Constant velocity turbines are preferred. Variable speed turbines must submit additional data concerning noise when their revolutions per minute exceed 25 rpms.
9. Visual appearance and its impact on nearby dwellings will be limited by using muted colors, industry standard that minimizes visibility, and by using turbines that are consistent in their appearance. (10-24-05)
10. No advertising of any kind shall be allowed on the wind turbine.
11. The electrical wires used to connect the turbine tower to its step-up transformer shall be installed at a depth of 48 inches or more below ground.

12. At the time of application, data from the Michigan DNR must be included that shows migratory routes, nesting sites and or feeding areas of protected avian species indigenous to Michigan and its neighboring states.
13. The compatibility of the tower structure with the rotors and other components of the conversion systems shall be certified by a certified, registered engineer and by the authorized factory representative. In addition, the lowest point of the blade shall be a minimum of thirty (30) feet above the ground.
14. All conversion system towers, poles or structures may exceed the height limitations of a zoning district in which located, but shall be a distance from the base of the structure to all property lines two (2) times greater than the height of the structure as measured from the base to the highest reach of its blade, thus should the structure collapse or topple, it shall come to rest wholly within the property lines on which it is emplaced. All wind turbine generators shall comply with the regulations found in Article XV Airport Overlay District found in this Ordinance.
15. The certified registered engineer and authorized factory representative shall certify that the construction and installation of the conversion system meets or exceeds the manufacturer's construction and installation standards.
16. Maintenance and Operation
  - a. All conversion systems must be maintained and kept in good working order or shall be removed by the property owner. Any wind turbine that has not produced electrical energy for 12 consecutive months shall be deemed to be abandoned. In the case of pooled parcels, it shall be the obligation of the pooled owners in accordance with their pro rated share to remove the abandoned wind turbine. To ensure that abandoned turbines are removed, a bond shall be required at the time of construction.
  - b. A condition of the bond shall be notification by the bond company to the County Zoning Administrator when the bond is about to expire or be terminated.
  - c. The property owner, pooled owners, or developer shall provide the County Zoning Administrator with a copy of the yearly maintenance inspection.
  - d. Failure to keep the bond in effect while a wind turbine generator or weather testing tower is in place will be a violation of the special land use approval. If a lapse in the bond occurs, the County will use all available remedies including possible enforcement action and revocation of the special land use approval.
17. Noise levels.
  - a. The noise level measured at the external property line of the parcel on which the conversion system has been installed shall not exceed 55 decibels. If the ambient sound pressure level exceeds 55 decibels, the standard shall be ambient dB(A) plus 5 dB(A). After installation of the Utility Grid wind energy system, sound pressure level measurements shall be done by a third party, qualified professional according to the procedures in the most current version of ANSI S12.18. All sound pressure levels shall be measured with a sound meter that meets or exceeds the most current version of ANSI S1.4 specifications for a Type II sound meter.
  - b. Documentation of sound pressure level measurements shall be provided, at the expense of the applicant, to the local government within 90 days of the commencement of the commercial operation of the project.



- c. The applicant shall submit all of the following data at the time of the application that clearly demonstrates that the placement and design of the wind turbine(s) can meet or not exceed the prescribed noise levels.
    - i. **Wind Rose Chart.** This is a chart or graph that describes 12 months of wind data collected from the proposed parcel. This graph or chart will demonstrate direction, duration, and intensity of the wind for the entire parcel (pooled or not).
    - ii. **Site Plan.** Site plan to scale that shows the relationship of all dwellings at the external property lines of the proposed wind turbine(s) parcel.
    - iii. **Sound chart or sound data.** Sound chart or sound data that shows the sound level in decibels at the base of the turbine tower and at the nacelle. In addition, the reduction of noise of the specific wind turbine, up to and including, 7 rotor diameters away from the base of the wind turbine shall be included. Modeling and analysis shall conform to the IEC 61400 and ISO 9613.
  - d. **Sound Pressure Mediation.** Should an aggrieved property owner call into question the sound pressure level of a wind tower, the aggrieved property owner shall follow the following procedure:
    - i) Notify the County in writing regarding concerns about sound pressure and ask the County to perform a sound pressure test at the aggrieved owner's property line.
    - ii) The County will request the aggrieved property owner deposit funds in an amount sufficient to pay for a sound measurement test according to the specifications of 17.48 17.a.
    - iii) If the sound test indicates that the sound pressure level is within ordinance guidelines, the County will use the deposit to pay for the sound pressure test.
    - iv) If the wind tower owner is in violation of the ordinance sound standards, the tower owner shall reimburse the County for the sound pressure test and take immediate action to bring the wind tower into greater compliance which may include ceasing operation of the wind turbine until ordinance violations are corrected. The County will refund the deposit to the aggrieved property owner.
18. **Required Lighting.** Any lighting required by the FAA shall be of the lowest intensity and of the slowest pulse allowed.
19. **Pooled Properties.** Property owners lying within a pooled set of properties, as defined by the ordinance, must record the legal documentation establishing the pool (either lease or easement) with the Register of Deeds.

#### **Section 17.71 On Site Wind Energy Systems and Anemometers over 66 feet. 5-30-08**

1. **Setbacks:** The distance between a wind energy system structure and the owner's property lines shall be at least 1 ½ times the height of the wind energy system tower including the top of the blade in its vertical position. No part of the wind energy system structure, including guy wire anchors, may extend closer than 25 feet to the owner's property lines or the right-of-way.
2. **Sound Pressure Level:** Sound pressure level shall not exceed 55 dB (A) at adjacent property lines to the wind energy system. The sound pressure level may be exceeded during short-term events such as utility outages and/or severe wind storms. If the ambient sound pressure level exceeds 55 dB (A), the standard shall be ambient dB(A) plus 5 dB(A).
3. **Sound Pressure Proof of Compliance:** Proof of compliance with sound pressure standards is required within 90 days after the system becomes operational. Sound shall be measured by a third party, qualified professional according to the standards outlined in Section 17.48 17.a.

4. **Sound Pressure Mediation.** Should an aggrieved property owner call into question the sound pressure level of a wind tower, the aggrieved property owner shall follow the following procedure:
  - a. Notify the County in writing regarding concerns about sound pressure and ask the County to perform a sound pressure test at the aggrieved owner's property line.
  - b. The County will request the aggrieved property owner deposit funds in an amount sufficient to pay for a sound measurement test according to the specifications of 17.48 17.a.
  - c. If the sound test indicates that the sound pressure level is within ordinance guidelines, the County will use the deposit to pay for the sound pressure test.
  - d. If the wind tower owner is in violation of the ordinance sound standards, the tower owner shall reimburse the County for the sound pressure test and take immediate action to bring the wind tower into greater compliance which may include ceasing operation of the wind turbine until ordinance violations are corrected. The County will refund the deposit to the aggrieved property owner.
5. **Construction Codes and Other Standards:** On Site Use wind energy systems including anemometer towers shall comply with all applicable state construction and electrical codes and local building permit requirements. On Site Use wind energy systems including towers shall comply with Federal Aviation Administration requirements, the Michigan Airport Zoning Act (Public Act 23 of 1950, MCL 259.431 et seq.), the Michigan Tall Structures Act (Public Act 259 of 1959, MCL 259.481 et seq.), and airport overlay zone regulations.
6. **Safety:** An On Site Use wind energy system shall have automatic braking, governing, or a feathering system to prevent uncontrolled rotation or over speeding. All wind towers shall have an automatic transfer switch. All wind towers shall have lightning protection. If a tower is supported by guy wires, the wires shall be clearly marked with brightly colored tubing to a height of at least six feet above the guy wire anchors. The minimum vertical blade tip clearance from grade shall be 20 feet for a wind energy system employing a horizontal axis rotor.
7. **Lighting:** Lighting required by the FAA shall be the lowest intensity and of the slowest pulse allowed.
8. **Visual Impact:** Visual impact will be limited by using muted colors, industry standards that minimize visibility, and by using turbines that are consistent in the appearance. No advertising of any kind shall be allowed on the wind turbine with the exception of the manufacturer's name or logo.
9. **Abandonment.** If a wind tower has been abandoned for over 1 year and poses an immediate risk to health and safety due to lack of maintenance, poor structural integrity, noise, or vibration it shall be considered a nuisance and a violation of this ordinance.
10. **Lack of Maintenance.** If at any time the wind tower poses an immediate risk to health and safety due to lack of maintenance, poor structural integrity, noise, or vibration it shall be considered a nuisance and a violation of this ordinance.
11. **Applications:** Applications for On Site wind energy systems with a tower height greater than 66 feet shall include:
  - j. A site plan, drawn to scale, indicating property lines, dimensions and location of all structures, and all structures within 100 feet of the applicant's property lines.
  - k. Information regarding the height of the tower and turbine blade length.
  - l. Manufacturer's modeling and analysis confirming that the wind energy system will not exceed the maximum permitted sound pressure levels.
  - m. The location of the wind turbine, guy wires, and accessory structures.
  - n. Documentation that construction code, tower interconnection (if applicable), electrical code, airport overlay zoning, and safety requirements have been met.
  - o. The applicant shall provide visual simulations of how the completed project will look from four viewable angles.
  - p. Proof of the applicant's liability insurance.

- q. Applicant shall provide a copy of that portion of the applicant's lease with the land owner granting authority to install a Met tower and requiring the applicant to remove all equipment and restore the site after completion of the wind site assessment.
- r. An aerial photograph indicating property lines and the location of the wind turbine or anemometer and all support apparatus.
- s. A survey of the applicant's property, if the applicant has an existing survey.

**Section 17.54 ~~Drive-In/Drive-Thru Restaurant (10-24-05)~~**

- ~~1. Buildings shall be so arranged on site in a manner that screens drive-thru lanes from adjoining residentially zoned land.~~
- ~~2. Customer parking shall be located on the site in a manner which precludes pedestrians from traversing through drive-thru lanes and off-street loading zones.~~
- ~~3. Loading zones shall be restricted to the rear or side yards.~~
- ~~4. There shall be provided no less than five (5) stacking spaces for the drive-thru lane.~~
- ~~5. Devices for the transmission or broadcasting of voices or music shall be so directed or muffled as to prevent said sound or music from being audible beyond the boundaries of the site.~~
- ~~6. Businesses adjacent to or integrated in a shopping center or cluster of commercial facilities shall use the common access with other business establishments in that center.~~

**ARTICLE XVIII**  
**SITE PLAN REVIEW AND APPROVAL**

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**Section 18.01 Statement of Purpose.**

It is the purpose of this Article to specify standards and data requirements that shall be followed in the preparation of site plans as required by this Ordinance.

**Section 18.02 Improvements Which Require Site Plan Approval.**

Prior to the establishment of any new use, addition to an existing use, or the erection of any structure in any zoning district, a site plan shall be reviewed and approved by the Planning Commission, subject to the following conditions:

1. **Site Plan Review Required:** Site plan review is required for all principal uses and structures permitted in all zoning districts (except individual single-family and two-family dwellings erected on a single lot or parcel and their accessory structures) and all special land uses. Individual single-family and two-family dwellings erected on a single lot or parcel and their accessory structures shall be reviewed administratively by the Zoning Administrator or designated staff. (1-1-08)
2. **Administrative Review Option for Additions:** When the erection of a structure constitutes an addition to an existing use or building, the site plan review procedures may be modified by the Zoning Administrator to provide for an administrative review and approval in lieu of Planning Commission review and approval. The Zoning Administrator may conduct an administrative review if the following conditions are met:
  - a. No variances are required.
  - b. The proposed new construction will not increase the total gross floor area of all buildings on the parcel by more than twenty-five (25) percent or two-thousand five-hundred (2,500) square feet, whichever is less.
3. **Administrative Review Option for Building Re-occupancy:** In the case of re-occupancy of an existing building, the site plan review procedures may be modified by the Zoning Administrator to provide for an administrative review and approval in lieu of Planning Commission review and approval unless the development lies within the Access Management Overlay Zone, in which case Section 21.02(6) shall apply. The Zoning Administrator may conduct an administrative review if the following conditions are met:
  - a. No variances are required.
  - b. The use will be conducted entirely within an enclosed building.
  - c. The use will not increase the existing parking area by more than twenty (20) percent of the area which existed prior to re-occupancy.
  - d. The use will not substantially alter the character of the site.
4. **Conformance to Ordinance Requirements:** All site plans shall conform to the requirements of the Zoning Ordinance. Administrative review procedures are not intended to modify any ordinance, requirement, or development standard. The Zoning Administrator shall notify the Planning Commission of all site plans processed or scheduled for administrative review.
5. **Land Clearing:** No person shall undertake any activity such as grading, clearing, cutting and filling, excavating, or tree removal in preparation for a use or structure which requires site plan review and

approval until the proposed use or structure is authorized by a land use permit issued by the zoning administrator.

6. Highway Overlay Zone: Any change of use, establishment of a new use, addition to an existing use, a change in the configuration of a parking lot, the construction of a new building, structure, or parking lot in the Highway Overlay District or the construction of a new residence on a new land split created after the adoption of this District shall require site plan review, as provided for in Section 18.02, and shall also be reviewed in accordance with Article XXI. Except for single-family and two-family dwellings, all site plan reviews in the Access Management Overlay zone shall be conducted by the Planning Commission. (1-1-08)

### **Section 18.03 Data Required for Site Plans.**

Site plans which require Planning Commission review and approval must comply with the requirements of paragraphs 1, 2, and 4 of this Section. Site plans which are eligible for administrative review must comply with paragraphs 1, 3, and 4 of this Section.

1. General Information Required: All site plans shall be prepared in accordance with the following requirements:
  - a. All site plans shall be drawn at a scale of at least one (1) inch equaling one-hundred (100) feet for sites of less than eighty (80) acres, and at a scale of at least one (1) inch equaling two hundred (200) feet for sites of eighty acres or more. All site plans shall the following: Preparation and revisions dates; a graphical scale; north arrow; and a location map. The location map shall depict the proposed development site, section lines and numbers, and major roadways within two-thousand (2,000) feet of the site;
  - b. The applicant's name, address, and telephone number, and the property owner's name, address, and telephone number, if different than that of the applicant;
  - c. A survey of the property showing property lines with dimensions and bearings, any easements of record, required setbacks, and a written legal description;
  - d. Notation of all federal, state, and local permits required;
  - e. Bear the seal of the responsible licensed professional engineer, land surveyor, or registered landscape architect prior to issuance of a land use permit.
  - f. All site plans for property in the Highway Overlay District shall conform to the requirements of Article XXI. (1-1-08)
2. Additional Information Required for Planning Commission Review: Site plans which are subject to Planning Commission review shall provide the following information in addition to that which is required by Section 18.03.1:
  - a. A written statement which describes the characteristics of the development. For residential developments, the project description shall describe the number of dwelling units, bedrooms, carports or garages, and the type and amount of recreational open space. For nonresidential developments, the project description shall describe the intended use, hours of operation, the gross and useable floor areas in square feet, and the number of employees per shift;
  - b. A site data chart which compares the existing and proposed improvements to the lot area: setback, height, and lot coverage requirements of the zoning district; and the off-street parking and landscape requirement calculations;

- c. Location of natural features such as, but not limited to, woodlots, streams, floodplains, county drains, lakes, ponds, and existing topography at ten (10) foot intervals within one-hundred (100) feet of the site;
  - d. Location and dimensions of existing structures within one-hundred (100) feet of the site including notation as to which on-site structures will be retained and which will be removed or altered;
  - e. Location and dimensions of proposed structures, including building elevations and floor plans;
  - f. Location and dimensions of existing public rights-of-way (including paving material), private roads, or access easements of record;
  - g. Location and dimensions of proposed rights-of-way, acceleration/deceleration lanes, driveways, parking spaces, maneuvering lanes, loading areas, and sidewalks. Proposed traffic control measures and proposed street names shall also be indicated;
  - h. Snow storage areas; (1-1-08)
  - i. Location of existing and proposed utilities, water mains, wells, fire hydrants, sewers, septic fields, and storm drains, as well as any easements that exist or are proposed to be established for the installation, repair, or maintenance of utilities;
  - j. Location and dimension of exterior drains, dry wells, catch basins, retention and/or detention areas, sumps, and other facilities designed to collect, store, or transport storm water or wastewater as well as point of discharge;
  - k. Proposed location of signs, trash receptacles, light fixtures, and any other accessory structures and uses;
  - l. Typical straight cross-sections including slope, height, and width of any berms and type of ground cover, and height and type of construction of any wall or fence, including footings;
  - m. Location, spacing, type, and size of proposed plant materials;
  - n. Location and specifications for any existing or proposed storage of any chemicals, salts, and flammable or hazardous materials as well as any required containment structures or clear zones.
3. Additional Information for Administrative Review: Site plans subject to administrative review and approval shall provide the following information in addition to that required by Section 18.03.1:
- a. A project statement that describes the proposed use of the building, the number of employees, floor plan layout, and other general information describing the proposed activity;
  - b. Existing and proposed parking serving the site, including any improvements (paving, striping, landscaping) which are contemplated;
  - c. Existing and proposed sidewalks, landscaping, and other site amenities;
  - d. Any required screening walls or landscape buffers between the use and the adjacent properties;
  - e. Existing and proposed site ingress and egress.
4. Any other information deemed necessary to determine if the proposed site plan conforms to the requirements of this Ordinance.

#### **Section 18.04 Action on Site Plans.**

1. Submission of Site Plan for Planning Commission Review: The applicant shall provide ten (10) copies of the proposed site plan to the Zoning Administrator. The Zoning Administrator shall review the submittal to determine that all the required information has been provided. Upon finding that the site plan is complete, the Zoning Administrator shall place the site plan on the Planning Commission's agenda.
2. Submission of an Administrative Site Plan: The applicant for administrative review shall provide three (3) copies of the proposed site plan to the Zoning Administrator. The Zoning Administrator shall review the submittal to determine that all the required information has been provided. Upon finding that the site plan is complete, the Zoning Administrator shall proceed with an administrative review and approval.
3. Action: The Planning Commission or Zoning Administrator, as applicable, shall disapprove, approve, or approve with conditions the site plan. The body or person authorized to take action on a site plan may impose conditions in addition to the specific requirements of this Ordinance. Any conditions required by the Planning Commission, together with the reasons for those conditions, shall be provided in writing to the applicant.
4. Approval of Site Plans: A site plan shall be approved if it contains the information required by and is in compliance with the Zoning Ordinance, the conditions imposed pursuant to the Ordinance, and other County Zoning documents.
5. Approved Site Plans: Two copies of the approved site plan, including any written conditions, shall be maintained by the Zoning Administrator for future review and enforcement activities. One copy shall be returned to the applicant. If any variance was granted by the Board of Appeals, written evidence of the variance(s) shall be filed with the site plan and a copy provided to the applicant.
6. Site Plan Approval for Conditional Land Uses: The approval of site plans reviewed in conjunction with a conditional land use application shall occur subsequent to the approval of the conditional land use.

#### **Section 18.05 Standards for Granting Site Plan Approval.**

Each site plan shall conform to the applicable provisions of this Ordinance and the standards listed below:

1. Arrangement of Structures: Site plans shall demonstrate that buildings, parking areas, signs, walls, fences, and the like are designed to minimize adverse affects on development users and the occupants of adjacent properties.
2. Natural Features: Site plans shall demonstrate that as many natural features as possible have been retained, particularly where such features provide a buffer between adjoining properties or assist in preserving the general appearance of the neighborhood or help control soil erosion or storm water.
3. Vehicular and Pedestrian Traffic: Site plans shall fully conform to the driveway traffic and access standards of the Michigan Department of Transportation and Mason County. Further, the site plan shall demonstrate that there is a proper relationship between existing and proposed roadways, parking areas, and that the safety and convenience of pedestrian and vehicular traffic has been assured.
4. Public Safety: Site plans shall fully conform to the applicable fire safety and emergency vehicle access requirements of the State of Michigan International Code.
5. Drainage: Site plans shall fully conform to the Mason County Drain Commission standards.

6. Erosion: Site plans shall fully conform to the Mason County Soil Erosion and Sedimentation Control Ordinance.
7. Hazardous Waste Management: Site plans shall demonstrate that reasonable precautions will be taken to prevent hazardous materials from entering the environment.
8. Public Health: Site plans shall fully conform to the requirements of the Michigan Department of Public Health and the Mason County Health Department.
9. Statutory Compliance: Site plans shall fully conform to all applicable state and federal statutes.
10. All parking areas, landscaped areas, service drives and the like shall be separated by well defined mechanisms such as concrete curbing, rolled asphalt curbing, or similar method as determined by the Planning Commission. (1-1-08)
11. Lighting: Site Plans for non-residential uses shall include only lighting that is night sky compliant. Night sky compliant lighting must be designed and constructed in such a manner as to:
  - a. Insure that direct or directly reflected light is confined to the development site and pedestrian pathways.
  - b. Lamps and luminaries shall be shielded, hooded and/or louvered to provide a glare free area beyond the property line and beyond any public right-of-way, or the light source is not directly visible from beyond the boundary of the site.
  - c. The light from any illuminated source shall be designed so that the light intensity or brightness at any property line shall not exceed one (1) foot candle.
  - d. Lighting fixtures shall have one hundred (100) percent cut off above the horizontal plane at the lowest part of the point light source. The light rays may not be emitted by the installed fixture at angles above the horizontal plane.
  - e. There shall be no lighting of a blinking, flashing, or fluttering nature, including changes in light intensity, brightness or color. Beacon, strobe and search lights are not permitted.
12. In addition to any and all access requirements of this Ordinance, acceleration and/or deceleration lanes may be required by the Planning Commission after consultation with the access management advisory committee. (1-1-08)

#### **Section 18.06 Site Plan Amendments.**

1. Approval Required: Site plan amendments shall be reviewed and approved in the same manner as the original submittal and require the mutual consent of the property owner and the approving body or person. Minor site plan amendments, as defined in Section 18.06.2, may be made by the body or person who approved the original site plan without requiring a public hearing.
2. Minor Site Plan Amendments: Minor site plan amendments shall be limited to the following site plan changes:
  - a. Moving walls within the confines of the approved building footprint because of a natural impediment such as soil conditions or subsurface geology.
  - b. Moving the ingress and egress drive a distance up to one-hundred (100) feet, if required by the Mason County Road Commission or Michigan Department of Transportation.
  - c. Substituting a landscape material provided a nurseryman or landscape architect certifies that the substituted species is of a similar nature and quality.



- d. Changing the location and/or design of exterior light fixtures provided that there will be no change in the intensity of site lighting and the location conforms to the requirements of this Ordinance.
  - e. Changing the dimensions or location of approved signage provided that the sign conforms to the requirements of this Ordinance.
  - f. Altering the location of an accessory structure that is less than one-hundred (100) square feet in area provided that the location does not encroach on any approved parking, loading, or landscape areas and otherwise conforms to the requirements of this Ordinance.
  - g. Changing the height and/or material of fencing provided that the height conforms to the requirements of the Ordinance and that any substituted material is similar in character and quality.
3. Approval Required: A site plan amendment shall be approved if the Planning Commission finds that the change will not adversely affect the initial reasons for granting approval.

#### **Section 18.07 Review of Condominium Projects.**

- 1. Planning Commission Review: Prior to the recording of a master deed and exhibits for a new condominium subdivision, the developer shall submit the master deed and exhibits for review and approval by the Planning Commission according to the requirements of this Article. Prior to the recording of a master deed and exhibits for the conversion or expansion of an existing condominium subdivision, the developer shall submit the master deed and exhibits for review and approval by the Planning Zoning Commission according to the requirements of this Article. Further, these documents may be submitted for review and approval by the County Attorney, County Engineer, and County Planner to verify compliance with local Ordinances and state law.
- 2. Conformance to Ordinance Requirements: All principal buildings and/or accessory structures within a condominium subdivision shall comply, to the extent applicable, with the regulations of this Zoning Ordinance.
- 3. Conformance to Road Commission Requirements: All streets, public or private, within a condominium subdivision shall be designed and constructed in accordance the current standards and specifications of the Mason County Road Commission.
- 4. Dedication of Public Utility Easements: The condominium subdivision shall provide for the dedication of easements to the appropriate public agencies for the purposes of construction, operation, maintenance, inspection, repair, alteration, replacement and/or removal of pipelines, conduits, mains, and other installations of a similar character for the purpose of providing public utility services, including conveyance of sewage, potable water, and storm water runoff across, through, and under the property subject to said easement, and excavation and refilling of ditches and trenches necessary for the location of such installations. Easements dedication documentation may be reviewed by the County Attorney and County Engineer.
- ~~5. Monumentation Required: All condominium subdivisions which consist in whole or in part of condominium units which are building envelopes shall be marked with monuments as required below:~~
  - ~~a. Monuments shall be located in the ground and made according to the following requirements, but it is not intended or required that monuments be placed within the traveled portion of a street to mark angles in the boundary of the condominium project if the angle points can be readily reestablished by reference to monuments along the sidelines of the streets.~~

- ~~b. All monuments used shall be made of solid iron or steel bars at least one half inch in diameter and thirty-six (36) inches long and completely encased in concrete at least four (4) inches in diameter.~~
- ~~c. Monuments shall be located in the ground at all angles in the boundaries of the condominium project; at the intersection lines of streets with the boundaries of the condominium project and at the intersection of alleys with the boundaries of the condominium project; at all points of curvature, points of tangency, points of compound curvature, points of reverse curvature and angle points in the side lines of streets and alleys; and at all angles of an intermediate traverse line.~~
- ~~d. If the required location of a monument is in an inaccessible place, or where the locating of a monument would be clearly impracticable, it is sufficient to place a reference monument nearby and the precise location thereof be clearly indicated on the condominium project and referenced to the true point.~~
- ~~e. If a point required to be monumented is on bedrock outcropping, a steel rod, at least one-half inch in diameter, shall be drilled and grouted into solid rock to a depth of at least eight (8) inches.~~
- ~~f. All required monuments shall be placed flush with the ground where practicable.~~
- ~~g. All building envelope corners shall be monumented in the field by iron or steel bars or iron pipes at least eighteen (18) inches long and one-half inch in diameter or other approved markers.~~
- ~~h. The County Board of Commissioners may waive the placing of any of the required monuments and markers for a reasonable time, not to exceed one year, on the condition that the proprietor deposits with the County cash, a certified check, or irrevocable bank letter of credit naming the municipality in an amount sufficient to cover any cost associated with the monumentation. The performance guarantee shall be returned to the proprietor upon receipt of a certificate by a surveyor that the monuments and markers have been placed as required within the time specified.~~

#### **Section 18.08 Drawings of Record.**

Upon completion of required improvements, the developer shall submit drawings of record, certified by a surveyor or engineer, to the Zoning Administrator. All submitted drawings of record shall be on a mylar sheet of at least thirteen (13) inches by sixteen (16) inches. In the case of a condominium subdivision, the developer shall provide two (2) copies of the recorded master deed and any exhibits.

#### **Section 18.09 Performance Guarantees.**

To ensure compliance with the Zoning Ordinance requirements and any conditions imposed thereunder, the Planning Commission or Zoning Administrator may recommend the deposit of a performance guarantee to the County Board. (4-20-05)

1. Form: A performance guarantee shall be in the form of a cash deposit, certified check, irrevocable bank letter of credit, or surety bond in the amount of the estimated cost of the approved site improvements. The County shall have the right to determine the form of the performance guarantee.
2. Deposit: The performance guarantee shall be deposited with the County prior to the issuance of a land use permit. Upon receipt of the performance guarantee, the County shall deposit the performance guarantee, if in the form of a cash deposit or certified check, in an interest bearing account.
3. Rebate: In the event the performance guarantee is a cash deposit or certified check, the County shall rebate fifty (50) percent of the deposited funds when sixty (60) percent of the required improvements

are completed and the remaining fifty (50) percent when one-hundred (100) percent of the required improvements are completed as confirmed by the Zoning Administrator. If a request is made by the applicant, pending completion of the exterior improvements, the performance guarantee may be applied by the applicant to assure compliance with the standards of the Zoning Ordinance and the specifications of the site plan.

4. Return: Upon satisfactory completion of the improvements for which the performance guarantee was required, as determined by the Zoning Administrator, the County shall return to the applicant the performance guarantee deposited and any accrued interest.
5. Completion of Improvements: In the event the applicant fails to make the improvements for which the performance guarantee was required within the time period established by the County, the County shall have the right to use the performance guarantee and any accrued interest to complete the improvements. If the performance guarantee is not sufficient to allow the County to complete the improvements for which it was posted, the applicant shall be required to pay the County the amount by which the cost of completing the improvements exceeds the amount of the performance guarantee deposited. Should the County use all or a portion of the performance guarantee to complete the required improvements, any amounts remaining after the improvements are made shall be applied first to cover the County's administrative costs related to the completion of the improvements, with the balance being refunded to the applicant.
6. Performance Guarantees Required by Other Agencies: If the applicant has been required to post a performance guarantee with another governmental agency other than the County to ensure the completion of an improvement associated with the approved site plan, the applicant shall not be required to deposit with the County a performance guaranteed for that specific improvement.
7. Performance Guarantee Agreement: At the time the performance guarantee is deposited with the County and prior to the issuance of a land use permit, the applicant and County shall enter into an agreement incorporating the provisions of this Section.

#### **Section 18.10 Validity and Revocation of Site Plan Approval.**

1. Validity of Approval: An approved site plan shall be valid for a period of twelve (12) months from the date of issuance of the land use permit. If construction has not commenced or proceeded meaningfully toward completion by the end of this period, the Zoning Administrator shall notify the applicant in writing of the expiration of said permit; provided, however, that the County Planning Commission may extend the period of validity if it is satisfied that the owner or developer is maintaining a good faith intention to proceed with construction, in accordance with 18.10.3, below.
2. Revocation: The Planning Commission shall have the authority to revoke site plan approval following a hearing if construction of the approved improvements does not proceed in conformance with the approved site plan. Upon discovery of a violation, the Zoning Administrator may issue a stop work order and a notice to appear for a hearing before the Planning Commission. Notice of the hearing date shall be provided to the applicant no less than ten (10) days prior to the date of the meeting.
3. Extension: An approval may be extended for an additional six (6) months if approved by the Zoning Administrator or Planning Commission, as applicable. The extension must be requested in writing by the applicant at least one (1) month before the expiration of the initial approval. The extension may be approved provided there are no, and will be no, deviations from the approved site plan, there are no violations of applicable ordinances, and no development on abutting property has occurred with a driveway location that creates, or may create, an unsafe condition. If there is any deviation or cause for question, the Zoning Administrator shall deny the extension, and shall issue a stop work order if construction has begun. No extension may be reissued unless and until site plan review has been completed anew in accordance with this Article, and all other applicable requirements of this Ordinance have been satisfied.

### **Section 18.11 Fees.**

An application fee shall be established by resolution of the County Board of Commissioners. Before issuance of a land use permit, any costs incurred by the County shall be paid for by the applicant.

### **Section 18.12 Traffic Impact Analysis. (1-1-08)**

1. If the proposed use, addition, or new structure exceeds the traffic generation thresholds below, then the Zoning Administrator or Planning Commission shall require submittal of a traffic impact analysis at the expense of the applicant, as described below, prior to consideration of the site plan by either the Zoning Administrator or the Planning Commission. At their discretion, the Planning Commission may accept a traffic impact analysis prepared for another public agency. A traffic impact analysis shall be provided for the following developments unless waived by the Planning Commission following consultation with the Michigan Department of Transportation or County Road Commission, as applicable:
  - a. For any residential development of more than twenty (20) dwelling units, or any office, commercial, industrial or mixed use development, with a building over 30,000 square feet; or
  - b. When permitted uses could generate either a thirty percent (30%) increase in average daily traffic, or at least one hundred (100) directional trips during the peak hour of the traffic generator or the peak hour on the adjacent streets, or over seven hundred fifty (750) trips in an average day; or
  - c. Such other development that may pose traffic problems due to the size, nature and location as determined by the Planning Commission.
2. At a minimum the traffic impact analysis shall be in accordance with accepted principles as described in the handbook Evaluating Traffic Impact Studies, a Recommended Practice for Michigan, developed by the MDOT and other Michigan transportation agencies and contain the following:
  - a. A narrative summary including the applicant and all project owners, the project name, a location map, size and type of development, project phasing, analysis of existing traffic conditions and/or site restrictions using current transportation data with an explanation of methodology and assumptions.
  - b. Projected trip generation at the subject site or along the subject service drive, if any, based on the most recent edition of the Institute of Transportation Engineers Trip Generation manual. The County may approve use of other trip generation data if based on recent studies of at least two (2) similar uses within similar locations in Michigan.
  - c. Illustrations of current and projected turning movements at access points. Include identification of the impact of the development and its proposed access on the operation of the abutting streets. Capacity analysis shall be completed based on the most recent version of the Highway Capacity Manual published by the Transportation Research Board, and shall be provided in an appendix to the traffic impact analysis.
  - d. Description of the internal vehicular circulation and parking system for passenger vehicles and delivery trucks, as well as the circulation system for pedestrians, bicycles and transit users.
  - e. Justification of need, including statements describing how any additional access (more than one driveway location) will improve safety on the site and will be consistent with the US-31/US-10 Access Management Plan and the Mason County Comprehensive Plan, and will not reduce capacity or traffic operations along the roadway.

- f. Qualifications and documented experience of the author of the Traffic impact analysis, describing experience in preparing traffic impact studies in Michigan. The preparer shall be either a registered traffic engineer (P.E.) or transportation planner with at least five (5) years of experience preparing traffic impact studies in Michigan. If the traffic impact analysis involves geometric design, the study shall be prepared or supervised by a registered engineer with a strong background in traffic engineering. Any traffic impact study that involves a traffic signal (existing or proposed) shall be completed by a consultant that has been pre-qualified by the Michigan Department of Transportation for signalized intersection studies.
3. The Planning Commission may utilize its own traffic consultant to review the applicant's traffic impact analysis, with the cost of the review being borne by the applicant per the Mason County Escrow Policy (see Section 25.06(2)).

## **ARTICLE XIX PARKING AND LOADING**

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### **Section 19.01 Statement of Purpose.**

Off-street parking and loading with access to all spaces shall be provided in all districts in accordance with these provisions at the time any structure or use is established, constructed, altered, or expanded. The number of off-street parking spaces, in conjunction with all building uses, shall be provided prior to the issuance of a Certificate of Zoning Compliance, as hereinafter prescribed. When surfacing of the parking area is impractical due to inclement weather, the Zoning Administrator may permit temporary occupancy in accordance with the provisions of Section 3.24.

### **Section 19.02 General Provisions.**

1. Landscape plan requirement:

- a. No parking lot shall be constructed, enlarged, or reconstructed until a parking pattern and a landscape plan for that parking lot has been approved by the Planning Commission, or in the case of a permitted use, the Zoning Administrator.
- b. Landscape plans shall, where appropriate, be submitted as part of the plan.

2. Parking lot landscaping design criteria. The primary landscaping materials used in parking lots shall be trees which provide shade or are capable of providing shade at maturity. Shrubbery, hedges, and other live planting material shall be used to complement the tree landscaping, but shall not be the sole contribution of the landscaping. Effective use of earth berms and existing topography is also encouraged as a component of the landscaping plan.

- a. The landscaping shall be dispersed throughout the parking lot.
- b. The interior dimensions of any planting area or planting median shall be a minimum of ten (10) feet wide to protect the landscaping materials planted therein and to allow proper growth.
- c. Where plant material exists on a site prior to its development, such landscape material may be used if approved as meeting requirements of this Section.

3. Planting materials:

- a. At least fifty (50) percent of all tree stock upon planting shall be of size equal to or greater than six (6) feet in height for conifers or one-and-one-half inch caliper for deciduous stock measured six (6) inches above ground level. Said tree shall be in a minimum of five (5) gallon container, if container stock; or a minimum of twelve (12) inch root spread, if bare root stock; or a minimum of fourteen (14) inch ball, diameter. Size adjustments which reflect the growth habits of particular species may be made at the discretion of the Zoning Administrator.
- b. At least fifty (50) percent of all shrub stock shall be of a size equal to or greater than four (4) feet in height, if deciduous; twenty-four (24) inch spread, if creeping or prostrate evergreens; or twenty-four (24) inch spread and height, if semi-spreading evergreens. Size adjustments which reflect the growth habits of particular species may be made at the discretion of the Zoning Administrator.
- c. All ground surfaces contained within areas designated on the landscape plan as planting areas shall be planted and maintained in ground cover. Other landscape elements such as decks, patios, and stepping stones, landscape zones, and ponds may also be incorporated into such areas.

- d. All landscaping shall be protected from vehicular traffic by standard concrete curbing or asphalt and gutter.
- 4. Interior coverage requirements. Not less than five (5) percent of the interior of a parking lot shall be landscaped. This landscaping shall be distributed throughout the parking lot. Planting which is required for screening along the perimeter of any parking lot shall not be considered as part of the interior landscaping requirement. Moreover, where a parking lot abuts buildings on the subject property, border planting adjacent to those buildings shall not be considered as part of the interior landscape requirement.
- 5. Street frontage planting requirements:
  - a. A landscaping strip of thirty (30) feet in width shall be located between the abutting sidewalk or proposed right-of-way line and the parking lot, except where driveway or other openings may be required. (1-1-08)
  - b. No foliage or structural features shall obstruct the visibility of the motoring public.
- 6. Maintenance:
  - a. The owners and their agencies shall be responsible for providing, protecting, and maintaining all landscaping in healthy growing conditions, replacing it when necessary, and in conformance with original approvals. Yards shall be free of refuse and debris. All walls or fences shall be kept in good repair. All landscaping materials shall be placed so as not to grow out into the public right-of-way.
- 7. Bond/cash escrow requirement. During the months of November through April the applicant shall post a bond or cash escrow equal to one and one-half times the estimated cost of the landscaping project. Release of the bond or cash escrow is conditional upon the Zoning Administrator establishing viability of the greenbelts, parking lot landscaping, and general landscaping.
- 8. Off-street parking for nonresidential uses shall be either on the same lot or within three hundred (300) feet of the building it is intended to serve, measured from the nearest point of the building to the nearest point of the off-street parking lot. Ownership shall be shown of all lots or parcels intended for use as parking by the applicant.
- 9. Required residential off-street parking spaces shall consist of a parking strip, parking bay driveway, garage, or combination thereof and shall be located on the premises they are intended to serve, and subject to the provisions of Section 3.01, Accessory Buildings.
- 10. A maximum of twenty-five (25) percent of the required number of parking spaces may be supplied by on-site transient docking facilities with the approval of the Planning Commission.
- 11. Any area once designated as required off-street parking shall never be changed to any other use unless and until equal facilities are provided elsewhere.
- 12. Off-street parking existing at the effective date of this Ordinance, in connection with the operation of an existing building or use shall not be reduced to an amount less than hereinafter required for a similar new building or new use.
- 13. The storage of merchandise, the sale of motor vehicles, or the repair of motor vehicles is prohibited on any area designated as a parking lot.
- 14. For those uses not specifically mentioned, the requirements for off-street parking facilities shall be in accord with a use which the County Planning Commission considers to be similar in type.

15. When units of measurement determining the number of required parking spaces result in the requirement of a fractional space, any fraction up to and including one-half shall be disregarded and fractions over one-half shall require one parking space.
16. A suitable means of ingress and egress shall be provided and located to minimize traffic congestion and interference with pedestrian movement. The location of all entrances and exits and directional signs shall be approved by the Planning Commission, and where required, by the Mason County Road Commission and the Michigan Department of Transportation.
17. Federal and State requirements regarding handicapped parking and access shall apply.
18. Off-street parking shall be permitted to occupy part of the required front yard after the approval of the parking plan layout and points of ingress and egress by the Planning Commission provided that there shall be maintained a minimum unobstructed and landscaped setback of thirty (30) feet between the nearest point of the off-street parking area and the street right-of-way line.
19. For the purpose of computing the number of parking spaces required, the definition of usable floor area shall govern.
20. No parking lot shall contain a number of parking spaces exceeding 25% of the minimum number required. (1-1-08)
21. The Planning Commission may defer construction of the required number of parking spaces if the following conditions are met:
  - a. Areas proposed for deferred parking shall be shown on the site plan, and shall be sufficient for construction of the required number of parking spaces in accordance with the standards of this Ordinance for parking area design and other site development requirements.
  - b. Alterations to the deferred parking area may be initiated by the owner or required by the Zoning Administrator.
  - c. All or a portion of such deferred parking shall be constructed if required by the Zoning Administrator upon a finding that such additional parking is needed.
22. No parking area shall be located within any required front buffer area (1-1-08)

### **Section 19.03 Collective Parking.**

1. The collective provision of off-street parking for two (2) or more structures or uses is permitted provided that the number of spaces provided collectively is not less than the sum of the requirements for various individual uses, except as provided below.
2. The total of such off-street parking facilities for joint or collective use may be reduced by the Planning Commission in accordance with the following rules and standards:
  - a. Uses for which the collective off-street parking facilities are to serve shall either operate during different hours of the day or night, or shall have peak hour parking demands that do not coincide.
  - b. Not more than fifty (50) percent of the off-street parking facilities required for churches, bowling alleys, assembly facilities, dance halls and establishment for sale and consumption of alcoholic beverages, food, or refreshments may be supplied by off-street parking facilities provided for other buildings.



3. A legally sufficient written agreement assuring the joint usage of said common parking for the combination of uses or buildings shall be properly drawn and executed by the parties concerned, approved as to form and execution by the Planning Commission and County Attorney, and filed with and made part of the application for a zoning permit.

#### **Section 19.04 Off-Street Loading.**

1. Uses involving the receipt or distribution by vehicles of materials or merchandise shall provide and permanently maintain adequate space for standing, loading, and unloading services in order to avoid undue interference with public use of the streets or alleys, and thus, help relieve traffic congestion.
2. Every such building or structure housing such a use shall be provided with at least one (1) truck standing, loading and unloading space on the premises not less than ten (10) feet in width, twenty-five (25) feet in length and fourteen (14) feet in height. One additional truck space of these dimensions shall be provided for every additional twenty-thousand (20,000) square feet or fraction thereof of gross floor area in the building.
3. Off-street loading space and access drives shall be drained, lighted, and shall have appropriate bumper guards where needed. Any light used for illumination shall be night sky compliant. ~~so arranged as to reflect the light away from adjoining premises and streets.~~
4. When required off-street loading in a nonresidential district abuts a residential district, the minimum planting required shall be established by the Planning Commission.
5. Loading spaces shall not be construed as supplying off-street parking space.

#### **Section 19.05 Off-Street Parking Space Layout, Standards, Construction and Maintenance.**

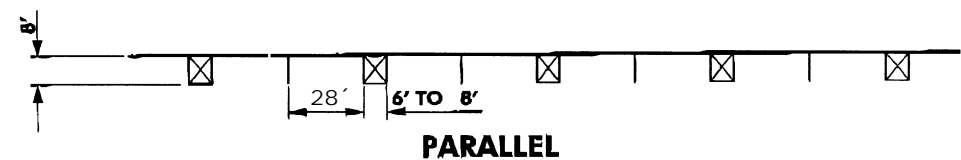
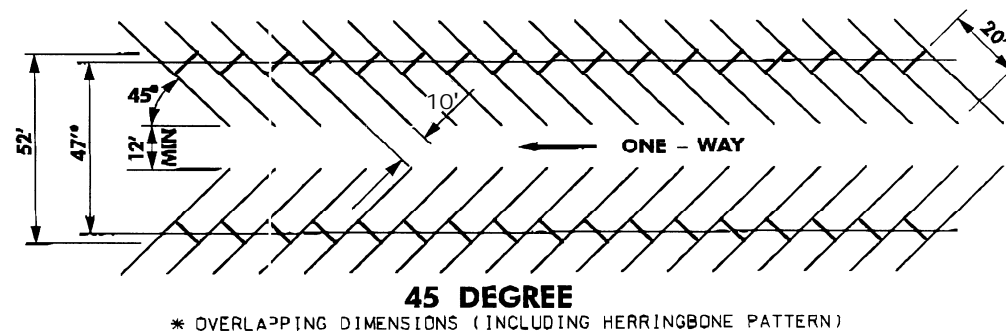
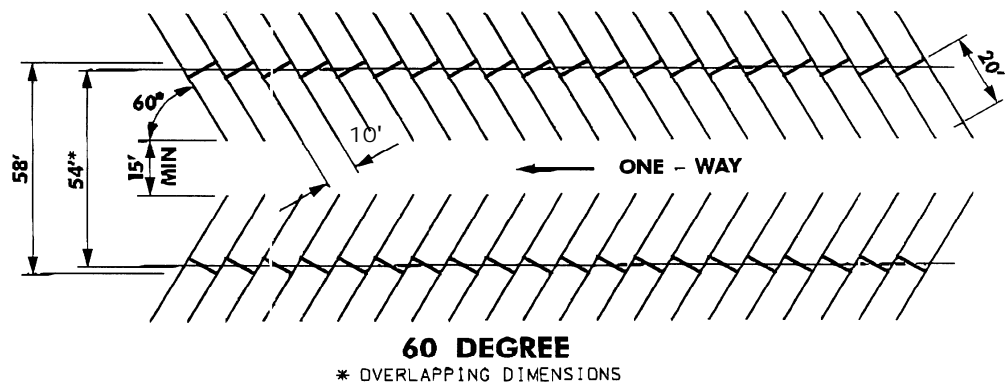
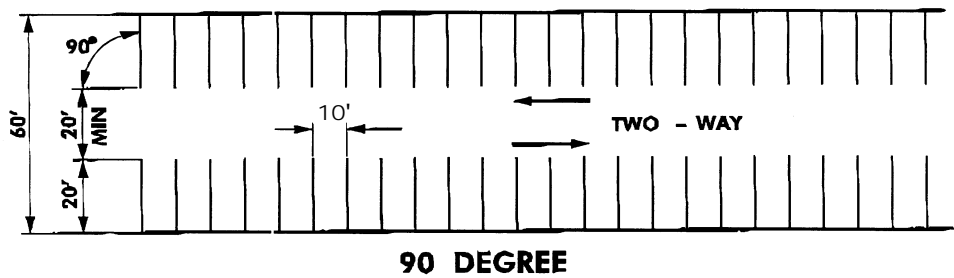
Whenever the off-street parking requirements of the Zoning Ordinance require an off-street parking facility, such off-street parking lots shall be laid out, constructed and maintained in accordance with the following standards and regulations:

1. No parking lot shall be constructed unless and until a permit therefore is issued by the Zoning Administrator and shall be accompanied by two (2) sets of plans for the development and construction of the parking lot showing full compliance with the provisions of this Section.
2. Plans for the layout of off-street parking facilities shall be in accord with the following minimum requirements. Refer to illustration 19-1, Parking Layout on the following page.

<b>Parking Pattern</b>	<b>Maneuvering Lane Width</b>	<b>Parking Space Width</b>	<b>Parking Space Length</b>	<b>Total Width of Two Tiers of Spaces Plus Maneuvering Lane*</b>	<b>Total Width of Two Tiers of Spaces Plus Maneuvering Lane</b>
<b>0° (Parallel)</b>	12 feet	8 feet	28 feet	--	--
<b>45°</b>	12 feet	10 feet	20 feet	47 feet	52 feet
<b>60°</b>	15 feet	10 feet	20 feet	54 feet	58 feet
<b>90°</b>	20 feet	10 feet	20 feet	60 feet	--

\*Measured from the centerlines of the parking stall borders (see illustration 19-1).

Illustration 19-1. Parking Layout



3. Each entrance and exit, to and from any off-street parking lot located in an area zoned for other than one family residential use shall be at least twenty-five (25) feet distant from adjacent property located in any one family residential district.
4. Except for those serving single and two-family dwellings, all off-street parking areas shall be screened from view from any adjoining residential property. Such screening shall consist of earth berms, permanent walls, or landscaping subject to the approval of the Planning Commission and in accordance with the provisions set forth in Section 3.13 of this Ordinance.
5. When a front yard setback is required, all land between said wall and the front property line or street right-of-way line shall be kept free from refuse and debris and shall be landscaped with deciduous shrubs, evergreen material, and ornamental trees. The ground area shall be planted and kept in lawn. All such landscaping and planting shall be maintained in a healthy, growing condition, and be neat and orderly in appearance.
6. The entire parking area, including parking spaces, driveways, and maneuvering lanes, required under this section, shall be provided with asphalt, concrete or double seal-coat surfacing. The parking area shall be surfaced prior to issuance of a Certificate of Zoning Compliance for the facility which it serves. All parking lots shall be striped according to the approved site plan. Alternative, environmentally-friendly porous or semi-porous pavement may be approved.
7. In the event that inclement weather or other conditions beyond the control of the builder make the surfacing of the parking area impractical prior to the desired date of occupancy, the Zoning Administrator may permit temporary occupancy for a period not to exceed six (6) months. A mandatory condition of this temporary occupancy shall be that a deposit, certified check, irrevocable bank letter of credit, or performance bond acceptable to the County, in the full amount necessary to provide the surfaced area, be deposited with the Mason County Treasurer, prior to any occupancy of the facility which it serves.
8. Those nonresidential structures in existence and operational at the time of adoption of this Ordinance shall be exempt from the provisions regarding hard surfacing except that asphalt, concrete, or double seal-coat surfacing shall be required for all parking required as a result of business expansion beyond fifteen (15) percent of the usable floor area of the existing on-site development. Alternative, environmentally-friendly porous or semi-porous pavement may be approved.
9. Off-street parking areas shall be drained so as to dispose of all surface water accumulated in the parking area in such a way as to preclude drainage of water onto adjacent property or towards buildings.
10. In all cases where a wall extends to an alley which is a means of ingress and egress to an off-street parking area, it shall be permissible to end the wall not more than ten (10) feet from such alley line in order to permit a wider means of access to the parking area.
11. All lighting used to illuminate off-street parking areas shall be night sky compliant. ~~so installed as to be confined within and directed only onto the parking area and away from abutting or neighboring property or from the street or highway.~~
12. Except for those serving one and two-family dwellings, all parking spaces shall be provided with wheel stops or bumper guards so located that no part of parked vehicles will extend beyond the property lines or into required landscaped areas.
13. The Planning Commission may modify the yard or wall requirements where no good purpose would be served by compliance with the requirements of this section.

## Section 19.06 Parking Space Requirements.

1. The minimum number of off-street parking spaces required for any structure or use which is established, constructed, altered, or expanded shall be determined in accordance with the following schedule:

Use	Required Parking Spaces
1. One family dwelling or Mobile homes	Two (2) for each dwelling unit.
2. Multiple dwellings	Two (2) for each dwelling unit.
3. Elderly housing, boarding, or lodging houses.	One (1) for each individual living or sleeping unit plus one (1) space for each employee. Should the units revert to general occupancy, then two (2) spaces per unit shall be provided.
4. Hotel and Motel	One (1) for each unit, plus one (1) for each employee on the largest shift, and required parking for accessory uses.
5. Bed and breakfast	<del>Two (2)</del> One (1) spaces plus one (1) additional space for each room to be rented.
6. Inns	<del>Two (2)</del> One (1) spaces, plus one space for each room to be rented plus parking as required for each accessory use.
7. Hospitals, convalescent or homes for the aged.	One (1) for each three (3) patient beds; plus one (1) space for each staff or visiting doctor; plus one (1) space for each employee on the largest shift.
8. Churches	One (1) for each <del>four (4)</del> <del>three (3)</del> seats or per each six (6) feet of pews, whichever is greater.
9. Auditoriums (incidental to schools churches, theaters), buildings of similar uses with fixed seats.	One (1) for each six (6) seats, plus one (1) additional space for each two (2) employees.
10. Auditoriums (other than incidental to schools), lodge halls or buildings of similar uses without fixed seats.	One (1) for each six (6) persons permitted in such edifice as determined in the capacity limitations, thereof, by the Fire Marshal.
11. Elementary and junior high school	One (1) for each employee (including teachers and administrators) in addition to the requirements of the auditorium.
12. High schools or business schools	One (1) for each employee (including teachers and administrators) and one (1) for each ten (10) students in addition to the requirements of the auditorium.
13. Libraries, museums, and post offices.	One (1) for each eight-hundred (800) square feet of usable floor area plus one (1) for each two (2) employees.
14. Private clubs or lodge halls.	One (1) for each three (3) persons allowed within the maximum occupancy load as established by the Fire Marshal.
15. Private golf clubs, swimming pool clubs, tennis clubs, or other similar uses.	One (1) for each two (2) member families or each two (2) individuals anticipated, plus spaces required for each accessory use, such as restaurant or bar.
16. Golf course open to the general public, except miniature golf or "Par 3" courses.	Four (4) for each (1) golf hole and one (1) for each one (1) employee, plus spaces required for each accessory use, such as a restaurant or bar.
17. Miniature or "Par 3" golf course.	Three (3) for each hole plus one (1) for each employee.
18. Stadium, sports area, or similar place of outdoor assemble.	One (1) for each four (4) seats or six (6) feet of benches.
19. Theaters and assembly halls.	One (1) for each four (4) seats plus one (1) for each two (2) employees.
20. Bowling lanes.	Five (5) for each bowling lane plus accessory uses.

Use	Required Parking Spaces
21. Assembly facilities.	One (1) for each three (3) persons allowed within the maximum or skating occupancy as established by Fire Marshal or local, county, or state fire, building, or health codes, or one for each one-hundred fifty (150) square feet of usable floor area, whichever is greater.
22. Establishments for sale and consumption on the premises of beverages, food, or refreshments.	One (1) for each one-hundred (100) square feet of usable floor area or one (1) each two (2) persons allowed within the maximum occupancy load as established by local, county, or state fire, building, or health codes, whichever is greater.
23. Furniture and appliance, household equipment, repair shops, showroom of a plumber, decorator, electrician or similar trade, shoe repair, or similar uses.	One (1) for each one-thousand of (1,000) square feet of usable floor area. (For that floor area used in processing, one (1) additional space shall be provided for each two (2) persons employed therein).
24. Automobile service and repair stations.	Two (2) for each lubrication stall, rack, or pit; one (1) for each gasoline pump and one (1) for each employee.
25. Self service gas station and convenience store.	One (1) space for each gasoline pump and one (1) space for each two-hundred (200) square feet of usable floor area.
26. Laundromats and coin operated dry cleaners.	One (1) for each two (2) washing and/or dry cleaning machines.
27. Mortuary establishment.	One (1) for each thirty (30) square feet of usable floor area in assembly, parlor, or slumber rooms.
28. Motor vehicle sales and service establishments.	One (1) for each two-hundred (200) square feet of usable floor area of sales room, and one (1) for each (1) auto service stall in the service room.
29. Retail <del>sales stores</del> except as otherwise specified herein.	One (1) for each two-hundred <del>and fifty (2500)</del> square feet of usable floor area.
30. Fast food and drive-in/ <del>drive-thru</del> restaurants.	One (1) for each two (2) employees, plus (1) for each two (2) seats intended for patrons within the restaurant building, and one (1) for each twenty (20) square feet of usable floor area available in the order-waiting area.
31. Beauty shops and barber shops.	Two (2) for each of the first two (2) beauty and/or barber shop chairs and one and a half spaces for each additional chair.
32. Planned commercial or shopping centers.	One (1) for each <del>two hundred and fifty (250)</del> <del>one hundred (100)</del> square feet of usable floor area.
33. Auto wash.	One (1) for each one (1) employee. In addition, adequate waiting space for autos shall be provided on the premises.
34. Banks.	One (1) for each <del>two hundred and fifty (250)</del> <del>one hundred (100)</del> square feet of usable floor area.
35. Drive-in banks, cleaners, and similar businesses.	Storage space for five (5) cars between the sidewalk area and the service window and one (1) for each two (2) employees.
36. Nursery school, day nursery, or child care centers.	One (1) for each three-hundred and fifty (350) square feet of usable floor space.
37. Business offices or professional offices except as follows	One (1) for each two-hundred <del>and fifty (2500)</del> square feet of usable office floor area.
38. Professional office of doctors, dentists, or similar professions.	One (1) for each one-hundred (100) square feet of usable floor area or one (1) for each twenty-five (25) square feet in waiting rooms, and one (1) for each examining room, dental chair, or similar use area, whichever is greater.
39. Industrial or research establishments and related accessory offices	Five (5) plus one (1) for every one and one-half employees in the largest working shift. Space on-site shall also be provided for all construction workers during periods of plant construction.
40. Warehouse and wholesale establishments and related accessory offices.	Five (5) plus one (1) for every one (1) employee in the largest working shift, or one (1) for every seventeen hundred (1,700) square feet of usable floor space, whichever is greater.

- Each parking lot that services a building entrance, except one- or two-family residential or temporary structures, shall have a number of level parking spaces for the physically handicapped as set forth in the following table, and identified by above grade signs as reserved for physically handicapped persons.

<b>Total Spaces in Parking Lot</b>	<b>Required Number of Accessible Spaces</b>
Up to 25	1
26 to 50	2
51 to 75	3
76 to 100	4
101 to 150	5
151 to 200	6
201 to 300	7
301 to 400	8
401 to 500	9
501 to 1,000	2 Percent of Total
Over 1,000	20 plus 1 for each 100 over 1,000

Parking spaces for the physically handicapped shall be a minimum of twelve (12) feet wide and must meet all other applicable requirements as to size as set forth in this section as per state requirements.

**ARTICLE XX  
SIGN REGULATIONS  
(Revised 5-1-08)**

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**Section 20.01 Statement of Purpose.**

1. This section regulates signs in Mason County that are on lands open to the public, visible from public road rights-of-way, private roads, public facilities, trails open to the public, and navigable waterways. Mason County has a tradition and reputation as a community with a rich mix of land uses that blend into a landscape of high aesthetic quality. It is a basic tenet of this Section that unrestricted signing does not benefit either private enterprise or the community-at-large. Depending on their size, numbers, and character, signs may attract or repel visitors, affect the visual quality enjoyed by daily residents, affect the safety of vehicular traffic, and define the character of the area. Thus aesthetic considerations impact economic values as well as public health, safety, and welfare. Therefore this section of the ordinance sets standards for the following purposes:
  - a. Maintain and enhance the visual quality of the community.
  - b. Improve pedestrian and motorist safety by minimizing distractions and obstacles to clear views of the road and directional or warning signs.
  - c. Support and complement the land use objectives of the Mason County Comprehensive Plan and this ordinance.
  - d. Protect and enhance economic viability by assuring that Mason County will be a visually pleasant place to visit or live.
  - e. Protect property values and private/public investments in property.
  - f. Protect views of the natural landscape and sky.
  - g. Avoid personal injury and property damage from structurally unsafe signs.
  - h. Provide businesses with effective and efficient opportunities for identification by reducing competing demands for visual attention.
  - i. Reflect the primary purpose of signing as being the identification of a particular user or use on a property, but not necessarily every activity or service performed thereon.
  - j. Avoid excessive signing in order to give each business or use optimum visibility to passer-by traffic and if possible, prevent clutter, and to prevent one sign from blocking the view of another sign.
  - k. Achieve some uniformity and balance in the size, number and placement of signs.
  - l. Accommodate special circumstances or events that may create a need for temporary signs for a limited and reasonable time period.

**Section 20.02 General Standards and Requirements.**

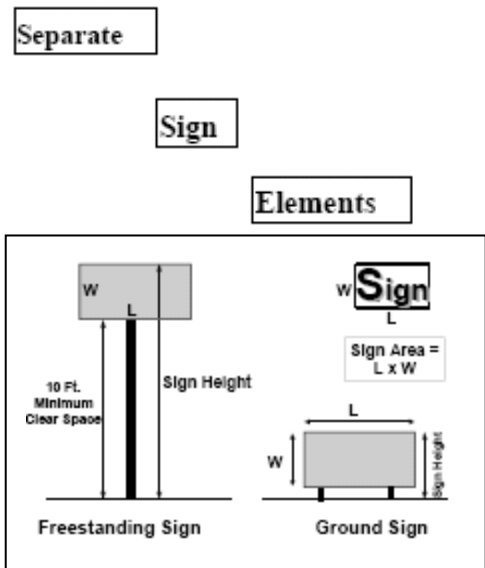
1. Prior to the erection or structural alteration of a sign, a sign permit shall be secured from the Zoning Administrator. The following shall be provided with the sign application so the Zoning Administrator can ensure that the provisions of this Ordinance are met:
  - a. Graphic depiction of the sign with total display area of the sign in square feet;
  - b. Proposed setback of the sign from the road right-of-way, drives and adjacent properties;
  - c. Sign type, purpose and height, and ground clearance if applicable;
  - d. Height and width of building if the sign is a wall or wall projecting type;
  - e. Lighting, type and screening, as appropriate.
  - f. Site area and frontage
2. A sign not expressly permitted by this Ordinance is prohibited.
3. With the exception of official public signs, no signs or displays shall be placed within the public right-of-way or upon any utility pole.
4. Signs, either temporary or permanent, shall not obstruct the clear view of traffic.

5. Wall signs shall be attached to, and be parallel to, the wall of the building.

### Section 20.03 Sign Measurements.

#### 1. Sign Area.

- a. Sign area shall be the entire area within a circle or polygon enclosing the extreme limits of writing, representation, emblem, or any figure of similar character. This area shall also include any frame or other material or color forming an integral part of this display or used to differentiate the sign from the background against which it is placed; excluding the necessary supports or uprights on which the sign is placed. The maximum width of necessary supports shall be two (2) feet.
- b. Where a sign has two (2) or more faces, the area of all faces shall be included in determining the area of the sign, except that where two (2) such faces are placed back-to-back, parallel to one another, and less than thirty-six (36) inches apart, the area of the sign shall be the area of one (1) face. Where a sign has two (2) or more faces, that portion of the sign structure connecting the sign faces shall not be used for display purposes. Signs painted on a wall are also regulated by the provisions of this Ordinance.
- c. In the case of a sphere, the total area of the sphere is divided by two (2) for purposes of determining the maximum permitted sign area.
- d. Separate sign elements, including the entire sign area, shall have each element of the sign calculated separately and summed for the purposes of determining the total area. The signs elements shall not exceed the total sign display permitted by the district in which it is located.
- e. In cases of multiple tenants, signs areas for wall signs shall be determined by taking that portion of the front wall of the building applicable to each tenant space, and the computing sign requirements for that portion of the total wall.



#### 2. Sign Height.

- a. The height of a sign shall be measured as the vertical distance from the highest point of the sign to the average grade of the ground beneath the sign. The ground beneath the sign shall not be altered for the sole purpose of providing additional sign height.
- b. Any freestanding sign shall maintain a minimum clear space of ten (10) feet from the bottom of the sign to the ground.

### Section 20.04 Sign Definitions.

1. A sign is a name, identification, description, display, or illustration which is affixed to, painted or represented, directly or indirectly, upon a building, structure, parcel, or lot and which directs attention to an object, product, place, activity, person, institution, organization, or business. Signs include, but are not limited to, figures, devices, objects, pennants, emblems, and pictures. Any of the above which is not placed out-of-doors, when placed inside near the surface of a window in such a way as to be in view of the general public and used or intended to be used to attract attention or convey



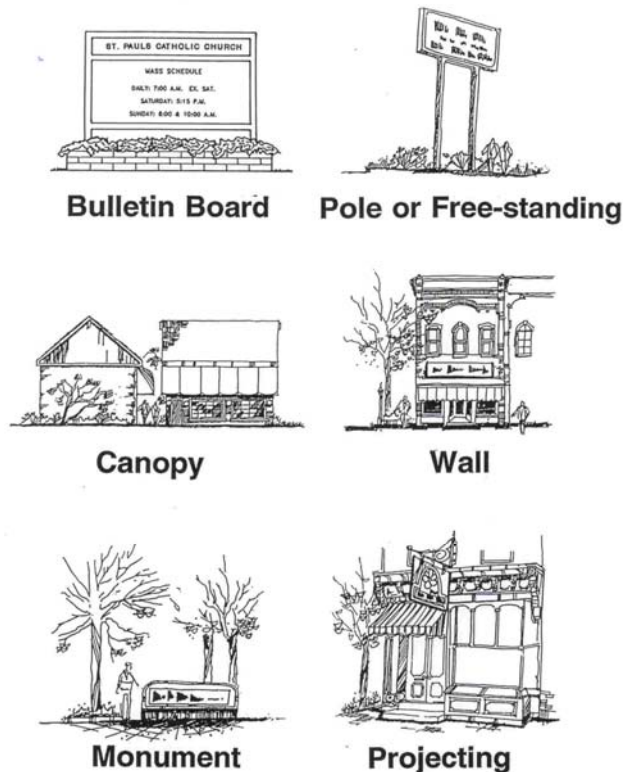
information to motorists and pedestrians, shall also be considered as a sign. Signs shall include the following types:

- a. **Abandoned Sign:**
  - i. A sign which advertises a bona fide business, lease holder, owner, product, or activity no longer conducted or available upon the premises where such sign is displayed.
  - ii. Any sign that does not display a well maintained message for a consecutive 1-year period.
  - iii. Any sign no longer fully supported, by the structure designed to support the sign, for a consecutive 1-year period.
- b. **Animated Sign:** Any sign that uses movement or change of lighting or lettering to depict action or create a special effect or scene.
- c. **Balloon Sign:** A sign that is lighter-than-air or gas-filled attached by means of a rope or tether or other device to a definite or fixed location.
- d. **Banner:** Any sign printed or displayed upon cloth or other flexible material, with or without frames that promotes an on-premises business, product or service.
- e. **Beacon:** Any light with one (1) or more beams directed into the atmosphere or directed at one (1) or more points not on the same zone lot as the light source; also, any light with one (1) or more beams that rotate or move.
- f. **Billboard:** A sign that directs attention to commercial or noncommercial goods, services uses/ideas not located on site.
- g. **Bulletin Board/Announcement Sign:** A sign related to a public school, parochial school, private school, public park or recreation facility, or church or other religious institution, which identifies activities or events to take place involving the patrons of such specific use.
- h. **Canopy Sign:** Any sign that is a part of or attached to an awning, canopy, or other fabric, plastic, or structural protective cover over a door, entrance, window, or outdoor service area. A marquee is not a canopy.
- i. **Changeable Copy Sign:** A sign or portion thereof with characters or letters, ~~or illustrations that can be changed or rearranged without altering the face or the surface of the sign. A sign on which the message changes more than eight (8) times per day shall be considered an animated sign and not a changeable copy sign for purposes of this Ordinance.~~ A sign on which the only copy that changes is an electronic or mechanical indication of time or temperature shall be considered a "time and temperature" ~~portion of a sign and not a changeable copy sign for purposes of this Ordinance.~~
- j. **Direction Sign:** A sign on private property with or without commercial message that gives direction such as entrances, exits, or street numbers.
- k. **Flag, Public:** A flag displaying the name, insignia, emblem, or logo of any nation, state, municipality, or non-commercial organization.
- l. **Flag, Commercial:** A flag with or without lettering designed to attract attention toward a commercial product, place of business, or entry point.
- m. **Flashing Sign:** An illuminated sign on which artificial or reflected light is not maintained stationary and constant in intensity and color at all times when in use.

- n. **Freestanding Sign/Ground Sign:** A sign which is attached to or a part of a completely self-supporting structure. The supporting structure shall be set firmly in or below the ground surface and shall not be attached to any building or any other structure whether portable or stationary.
- o. **Identification Sign:** A sign stating the name or description of the use of the premises on which the sign is located.
- p. **Incidental Sign:** A sign, generally informational, that has a purpose secondary to the use of the zoning lot on which it is located, such as "no parking," "entrance," "loading only," "telephone," and other similar directives.
- q. **Marquee:** Any permanent roof-like structure projecting beyond a building or extending along and projecting beyond the wall of the building, generally designed and constructed to provide protection from the weather.
- r. **Marquee Sign:** Any sign attached to, in any manner, or made a part of a marquee.
- s. **Monument Sign:** A sign attached to a permanent foundation and not attached or dependent for support from any building, pole, posts, or similar uprights.
- t. **Nonconforming Sign:** A non-conforming sign is a sign that was lawfully erected and maintained prior to the adoption of this ordinance, and which by reason of such adoption fails to conform to all applicable regulation and restrictions of this ordinance.
- u. **Off-premises sign:** A permanent advertising device that advertises goods, products, services or facilities or displays information not related to the site on which it is located or that directs persons to a different location from where the sign is located.
- v. **On-premises sign:** An advertising device relating in its subject matter to the property on which it is located or to products, accommodations, services or activities on the property.
- w. **Pennant:** Any lightweight plastic, fabric, or other material, whether or not containing a message of any kind, suspended from a rope, chain, wire, or string, usually in series, designed to move in the wind.
- x. **Portable Sign:** Any sign not permanently attached to the ground or other permanent structure, or a sign designed to be transported, including, but not limited to, signs designed to be transported by means of wheels; sign converted to a- or t-frames; menu and sandwich board signs; ~~balloons used as signs~~; umbrellas used for advertising.
- y. **Projection Sign:** A sign other than a wall sign suspended from, or supported by, a building or structure and projecting outward, including marquee signs.
- z. **Promotional Event Sign:** A sign used to temporarily advertise an event.
- aa. **Real Estate Sign:** A sign placed upon a property advertising that particular property for sale, rent, or lease.
- bb. **Residential Development Sign:** A sign placed on the premises of a subdivision, or other real estate development site, to identify a proposed start of development, the participants of such development (such as owner, contractor, architect, leasing agent, etc.), and relative date of availability.
- cc. **Roof Sign:** Any sign erected and constructed wholly on and over the roof of a building supported by the roof structure.

- dd. **Sidewalk Sandwich “A-frame” Sign:** A two-sided sign hinged or attached at the top of the sign panels.
- ee. **Special Event Sign:** A sign for events such as grand openings, vehicle shows, displays, craft shows, benefits, fund-raisers, festivals, and other limited term events.
- ff. **Structure, outdoor advertising:** Any structure of any kind or character erected or maintained for outdoor advertising purposes, upon which any outdoor advertising sign may be placed, including also outdoor advertising statuary.
- gg. **Suspended Sign:** Any sign that is suspended from the underside of a horizontal plane surface and is supported by such surface.
- hh. **Temporary Sign:** Any sign that is used only temporarily and is not permanently mounted.
- ii. **Vehicle Sign:** A sign located on the side of a motor vehicle (automobile, semi-truck or other) advertising goods and services that may or may not be located on the premises in which the vehicle is temporarily located.
- jj. **Wall Sign:** A sign erected or fastened against the wall of a building with the exposed face of the sign in a plane approximately parallel to the plane of such wall.

**Figure 20.01 Sign Types**



#### **Section 20.05 Permitted Signs in the Residential Districts.**

1. **Home Occupation.** One (1) unlighted sign announcing a home occupation, not-to-exceed four (4) square feet in area. Wall signs shall be attached flat against the front wall of the building. No

freestanding sign shall exceed four (4) feet in height from finished grade and the front edge of such sign shall not be placed within the road right-of-way.

2. **Home Based Business or Bed and Breakfast.** One (1) unlighted wall or one (1) freestanding sign announcing a home based business or bed and breakfast, not to exceed nine (9) square feet in area. Wall signs shall be attached flat against the front wall of the building. No freestanding sign shall exceed four (4) feet in height from finished grade and the front edge of such sign shall not be placed within the road right-of-way.
3. **Recorded Subdivision or Development “For Sale” Sign.**
  - a. One (1) freestanding sign advertising a recorded subdivision or development not-to-exceed twenty (20) square feet in area and six (6) feet in height and placed no closer to any street right-of-way than one-third the minimum authorized front yard depth.
  - b. Such sign shall be removed within one (1) year after the sale of ninety (90) percent of all lots or units within said subdivision or development.
  - c. Residential development signs indicating only the name of the development and the management/developer thereof.
  - d. There shall not be more than two (2) residential development signs for each major point of vehicular access to development.
4. **Residential Development Signs.**
  - a. Residential development signs at any location shall not exceed thirty two (32) square feet in gross surface area for each exposed face nor exceed an aggregate gross surface area of sixty-four (64) square feet for the combined surface of all sign faces.
  - b. Residential development signs shall not exceed six (6) feet in height, measured from grade.
  - c. Residential development signs shall not be located closer than twenty (20) feet from a public right-of-way.
5. **Other Authorized Uses.**

One (1) wall and one (1) freestanding signs or combination thereof identifying a park, school, church, public building, other authorized use or a lawful nonconforming use, each not-to-exceed thirty-two (32) square feet and be placed a minimum of twenty (20) feet from the street right-of-way line. No freestanding sign shall exceed six (6) feet in height. Flat wall signs may not project more than one (1) foot beyond the face of the building.

## **Section 20.06 Permitted Signs in the Nonresidential Districts.**

1. **Wall Signs.**
  - a. Flat wall signs may not project more than one (1) foot beyond the face of the wall of the building.
  - b. The total of all wall signs shall not exceed ten (10) percent of the surface area of the commercial portion of the front building face and may be placed on any wall. In the case where the building is over one hundred feet (200') from the nearest public right-of-way, the size allotment may be 15% of the front face of the storefront. In the case where the building is over three hundred feet (400') from the nearest public right-of-way, this allotment may be 20% of the front face of the storefront. A sign attached to a mansard shall be considered a wall sign.
  - c. Permanent lettering installed on the windows of a business, usually within the interior of the establishment, shall be considered as a wall sign. Lettering indicating business hours are exempt from this provision.
2. **Freestanding Signs.**
  - a. A maximum of one (1) freestanding and one (1) ground supported sign shall be permitted per parcel regardless of the number of businesses on the premises. Signs must be a minimum of twenty feet (20') from a neighboring sign. Ground clearance of a freestanding sign shall not be less than 10' measured from the bottom of the sign to the ground. Size and height limitations shall comply with table 20.01.

**Table 20.01  
Sign Size for Freestanding or Ground Supported Signs**

<b>Sign Type/Frontage</b>	<b>Allowable Size</b>	<b>Height</b>	<b>Location</b>
Freestanding-pole Up to or equal to 200 ft. of frontage.	Up to 32 square feet	20 feet	20 feet from ROW
Freestanding-pole More than 200 ft. of frontage	32 sf of signage for the first 200 sf of frontage. Plus 2.0 sf for every additional 10 feet of frontage up to a maximum of 100 sf.	20 feet	20 feet from ROW
Monument (Ground Supported) Up to or equal to 200 ft. of frontage.	Up to 40 square feet	10 feet	20 feet from ROW
Monument (Ground Supported) More than 200 ft. of frontage.	40 sf of signage for the first 200 feet of frontage. Plus 2 sf for every additional 10 feet of frontage. No sign shall exceed 120 sf.	10 feet	20 feet from ROW

**3. Shopping Center or Industrial Park Signs.**

- a. One (1) freestanding identification sign stating the name of a business center and major tenants therein may be erected for a shopping center, office park, industrial park, or other integrated group of stores, commercial buildings, office buildings, or industrial buildings, providing that such centers have multiple tenants and/or uses, and further provided that the site contains a minimum of two (2) acres of land. Such freestanding signs shall not be permitted for individual tenants located in an approved business center development.
  - i) Freestanding-pole Signs
    - (1) The allowable height for a freestanding signs shall not be over twenty five (25) feet measured from grade.
    - (2) The maximum sign area for a freestanding shall be one-hundred fifty (150) square feet per side.
    - (3) The leading edge of the sign shall be no closer than (50) feet from the right of way.
  - ii) Monument Signs
    - (1) The maximum sign area for a monument sign shall be one-hundred (100) square feet per side.
    - (2) Height of the sign shall not exceed fourteen (14) feet measured from grade.
    - (3) The leading edge of the sign shall be located no closer than twenty (20) feet to the right-of-way.
- b. Shopping centers having frontage on two (2) major thoroughfares or collector streets shall be permitted a second freestanding sign.
- c. The area beneath a shopping center sign shall be landscaped with low-maintenance plants and material so as to complement the site and integrate the sign with buildings, parking areas, and natural site features.

**Section 20.07 Exempt Signs.**

1. Highway signs erected by the U.S. Government, State of Michigan, or Mason County Road Commission.

2. Governmental use signs erected by governmental agencies to designate hours of activity or conditions of use for parks, parking lots, recreational areas, other public space, or for governmental buildings.
3. Directional signs in conjunction with drives or off-street parking areas, provided any such sign does not exceed four (4) square feet in area, and four (4) feet in height measured from grade.
4. Historic signs designating sites recognized by the State Historical Commission as Centennial Farms or Historical Landmarks.
5. Essential service signs denoting utility lines, railroad lines, hazards, and precautions.
6. Memorial signs or tablets which are either: (1) cut into the face of a masonry surface; or (2) constructed of bronze or other noncombustible material when located flat on the face of a building.
7. Non-illuminated temporary signs advertising real estate for sale or promoting political parties, candidates, or proposals so long as such signs are removed within three (3) days after the completion of the election or real estate transaction. Signs in place beyond three (3) days are declared to be a nuisance. Signs in residential areas shall not exceed six (6) square feet. Signs in nonresidential districts shall not exceed thirty-two (32) square feet.
8. Flag poles shall not exceed fifty (50) feet in height, measured from grade.
9. Not more than two (2) noncommercial flags shall be permitted on any lot, exclusive of the display of public flags. Noncommercial flags shall not exceed 32 square feet.
10. Accessory signs on farms or stables advertising stock, produce and/or other farm products produced or raised on the premises shall not exceed sixteen (16) square feet and 5 feet in height measured from grade.
11. Time and Temperature Signs are permitted when part of and integrated with a permitted sign, such as a wall sign or a freestanding sign. The sign area for a time and temperature sign shall be included in the allowable sign area calculation and not in addition to the allowable sign area described in section 20.06.

## **Section 20.08 Permitted Temporary Signs in All Districts.**

### **1. Construction and Other Temporary Signs.**

- a. Construction Signs. Construction signs showing names of building contractors, professional firms, and lending institutions on sites under construction not-to-exceed thirty-two (32) square feet in area and eight (8) feet in height and not located nearer than ten (10) feet to a public right-of-way. The sign shall be confined to the site of the construction, construction shed, or trailer and shall be removed within fourteen (14) days of the beginning of the use of the project.
- b. On-site "No Hunting", "No Trespassing", and on-premise "Garage Sale" signs not exceeding four (4) square feet in display area.

### **2. Promotional Event Signs.**

Promotional event signs shall be permitted for a period not to exceed thirty (30) days. Permitted promotional signs include:

- a. **Banners.** Banners are allowed on a temporary basis provided they are affixed to a building wall, over a permanent sign, or by other means necessary so long as the banner is safely supported. Banners must be stationary, properly maintained, and not allowed to become unsightly through disrepair or action of the elements.

- b. **Pennants, Spinners, and Streamers.** Pennants, spinners, and streamers, and similar temporary display devices are permitted so long as they are properly maintained, safely affixed, do not impede internal circulation within the site, are not located in the right-of-way, and do not become unsightly through disrepair of action of the elements.
- c. **Balloons.**
- d. **Sidewalk Sandwich “A-frame” Signs.** Sandwich board, tent, or “A” shaped signs shall not exceed thirty two (32) square feet per side or sixty-four square feet total. Sidewalk A-frame signs located within a shopping center or coordinated development must be located adjacent to the building, on the premises of the business, or on a sidewalk.
- e. Businesses are limited to two types of promotional signs per establishment at any given time.
- f. The location of the sign shall not interfere with pedestrian traffic, driver safety, or handicap access.

#### **Section 20.09 Prohibited Signs.**

- 1. Signs with animated or moving parts (inflatable, moving pictures, or other).
- 2. Beacons and signs displaying moving or animated parts, images, and/or words or which incorporate, in any manner or are illuminated by, any flashing or moving lights other than for the conveyance of noncommercial information which requires periodic change, such as temperature and time.
- 3. Signs illuminated by light other than continuous white light.
- 4. Exterior string lights used in the connection with a commercial premise, other than holiday decorations.
- 5. Benches with signs and/or advertising attached.
- 6. Inverted “T” signs with spider legs, with or without wheels with interchangeable lettering. Signs with interchangeable lettering that are permanently attached to the ground by pylon, monument, or other sign type shall meet the required sign setbacks.
- 7. Illuminated signs in which the lights are directed in such a manner that interferes with the vision of persons on adjacent roadways or neighboring properties. Every external artificial light source shall be directed solely to, and concentrated sharply on, the sign.
- 8. Signs erected, constructed, or maintained upon, or which project above, the roof line of a building.
- 9. Signs affixed to trees, shrubs or similar natural features.
- 10. Signs on parked vehicles where the sign is the primary use of the vehicle. For example, if the sign is too large to reasonably operate the vehicle or if the vehicle is non-operational and is used primarily as a support for a sign.
- 11. Animated signs.

#### **Section 20.10 Nonconforming Signs.**

The purpose of these provisions is to allow for the maintenance and normal repairs of a nonconforming sign, but not the complete replacement of a nonconforming sign in the event of destruction or removal.

- 1. Nonconforming signs shall not:

- a. Be re-established after the activity, business, or use to which it relates has been discontinued for one year or longer. Such signs shall be removed by the owner of the building, structure, or property upon which the sign is located.
  - b. Be structurally altered so as to prolong the life of the sign or so as to change the shape, size, type, materials, or design of the sign in a way which releases its nonconforming status.
  - c. Be repaired ~~re-established~~ after damage or ~~destruction~~, if the estimated or actual expense of ~~reconstruction~~ repair exceeds fifty (50) percent of the replacement cost as determined by the Zoning Administrator.
  - d. Be completely replaced with a new sign after destruction or removal so as to extend the duration of the nonconformity.
2. Maintenance. Nonconforming signs may be maintained in their present shape, size, materials, and design with ordinary repairs so as to remain in safe condition and to avoid unsightly deterioration.

### **Section 20.11 Signs for Planned Unit Developments (PUD).**

Signs for uses or buildings located in PUD's shall be subject to the sign limitations allowed for buildings or uses of similar type built in the respective Zoning Districts, as determined by the Zoning Administrator.

### **Section 20.12 Billboards.**

1. ~~New billboards in any district are prohibited.~~ It is hereby determined that a reasonable number of billboards provide the traveling public and the community with helpful information and a reasonable number of billboards can be important to the economic well-being of local and regional businesses. It is further determined that an excess number of billboards in the community will detract from the aesthetic character and scenic nature of the community and present the traveling public with confusing visual clutter rather than helpful information. The Planning Commission shall not approve a special land use application for a new billboard in the County of Mason if such approval would result in there being more than twenty-four (24) billboard structures or more than forty-five (45) billboard faces in the County.

[Annotation: for the purposes of establishing this maximum number both permitted billboards and lawfully constructed nonconforming billboards were counted. The billboards that were in place on 5/1/08 when the Ordinance was adopted are on file in the Zoning Administrator's office.]

2. Existing billboards which are being replaced shall be limited in size to 360 square feet and a height of twenty (20) feet.
3. Existing billboards which are being replaced or structurally altered shall be set back a minimum of thirty (30) feet from the road right-of-way. Existing billboards which are being replaced or structurally altered that are located more than thirty (30) feet from the road right-of-way shall be reconstructed in their current location.
4. Existing billboards that are being replaced shall not be internally illuminated or contain structural elements that allow for animated text or images.

### **Section 20.13 Construction and Maintenance Requirements.**

1. All signs and sign structures shall conform to all applicable codes adopted by the county. Signs shall be installed in a workmanlike manner and be maintained at all times in a state of good repair, with all braces, bolts, clips, supporting frame, and fastenings free from deterioration, insect infestation, rot, rust or loosening. All signs shall be kept neatly finished, including all metal parts and supports that are not galvanized or made of rust-resistant metals.





**ARTICLE XXI**  
**ARTICLE XXI HIGHWAY OVERLAY-**  
**ACCESS MANAGEMENT DISTRICT**  
**(1-1-08)**

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**Section 21.01 Findings and Intent.**

Conditions along the major highways and roadways in Mason County are changing with increasing development and traffic. Continued development along US-31, NORTH OF US-10 AND ALL OF US 10, TO THE EAST COUNTY LINE (henceforth, the "corridor") will further increase traffic volumes and introduce additional conflict points which will erode traffic operations and increase potential for traffic crashes. Numerous published studies document the positive relationship between well-designed access management systems and traffic operations and safety. Those studies and the experiences of many other communities demonstrate that implementing standards on the number, placement and design of access points (driveways and side street intersections) can preserve the capacity of the roadway and reduce the potential for crashes while preserving a good business environment and the existing investment in the highway.

The Highway Overlay Access Management District is hereby established along US-31, NORTH OF US-10 AND ALL OF US 10, TO THE EAST COUNTY LINE. As such, a series of access management recommendations are embodied in the Access Management Plan. Among those recommendations are the creation of an overlay district along these highways within Mason County and the adoption of uniform access management standards by all the jurisdictions along the corridor which are based on the Michigan Department of Transportation access management standards and the Michigan Access Management Guidebook, provided to local governments by the Michigan Department of Transportation.

The provisions of this Section are intended to promote safe and efficient travel on state highways within Mason County; improve safety and reduce the potential for crashes; minimize disruptive and potentially hazardous traffic conflicts; ensure safe access by emergency vehicles; protect the substantial public investment in the highway and street system by preserving capacity and avoiding the need for unnecessary and costly reconstruction which disrupts business and traffic flow; separate traffic conflict areas by reducing the number of driveways; provide safe spacing standards between driveways, and between driveways and intersections; provide for shared access between abutting properties; implement the Comprehensive Plan and the Access Management Plan recommendations; ensure reasonable access to properties, although not always by the most direct access; and to coordinate access decisions with the Michigan Department of Transportation, the Mason County Road Commission, and adjoining jurisdictions, as applicable.

To these ends, the following provisions:

1. Establish a Highway Overlay District to regulate access points along the highway.
2. Identify additional submittal information and review procedures required for developments that require site plan review which front along the corridor.
3. Require demonstration that new parcels are accessible and in compliance with the access standards of this Ordinance to ensure safe accessibility as required by the Land Division Act.
4. Restrict lots and parcels to a single access point except under certain circumstances.
5. Require longer frontages or wider minimum lot widths than are required in underlying zoning districts to help achieve access management spacing standards;
6. Require coordinated access and shared driveways among adjacent lands wherever feasible;

7. Improve situations where existing development along the highways does not conform to the standards and intent of this Article.
8. Establish uniform standards to ensure fair and equal application.

#### **Section 21.02 Applicability.**

The standards of this Section apply to all lots and parcels that abut the highway right-of-way of US-31, NORTH OF US-10 AND ALL OF US 10, TO THE EAST COUNTY LINE and such other lands that front on intersecting streets within three hundred fifty (350) feet along the corridor of the US-31, NORTH OF US-10 AND ALL OF US 10, TO THE EAST COUNTY LINE right-of-way within zoned areas under the jurisdiction of Mason County. This area is referred to as the Highway Overlay District. The standards of this Section shall be applied by the Planning Commission and the access management advisory committee during site plan review.

These regulations apply in addition to, and simultaneously with, the other applicable regulations of the Zoning Ordinance. Permitted and Special Land Uses within the Highway Overlay District shall be as regulated in the underlying zoning district (as designated on the zoning map), and shall meet all the applicable requirements for that district, with the following additional provisions:

1. The number of access points is the fewest needed to allow motorists reasonable access to the site.
2. Access spacing from intersections and other driveways shall meet the standards within the Highway Overlay District, and the guidelines of the applicable road agency (MDOT and/or Mason County Road Commission) and the recommendations of the Access Management Access Plan as appropriate.
3. Where an applicant shares access with adjacent uses, either now or in the future, any shared access and maintenance agreements must be recorded with the County Register of Deeds.
4. No building or structure, nor the enlargement of any building or structure, shall be erected unless the Highway Overlay District regulations applicable to the site are met and maintained in connection with such building, structure, or enlargement.
5. For a change of use, building or parking lot expansions, or site redevelopment (on parcels created prior to the enactment of this ordinance) that cannot meet the standards of this ordinance due to parcel size or configuration, the Planning Commission shall determine the extent of upgrades to bring the site into closer conformance with the access standards of this Highway Overlay District. In making its decision, the Planning Commission shall consider the existing and projected traffic conditions, any sight distance limitations, site topography or natural features, impacts on internal site circulation, characteristics of the affected land uses, recommendations within the corridor and Access Management Plan, and any recommendations from the MDOT, and/or Mason County access management advisory committee as appropriate. Required improvements may include removal, rearrangement or redesign of driveways or other access.
6. Where conflict occurs between the standards of this Ordinance and other applicable ordinances, the more restrictive regulations shall apply.

#### **Section 21.03 Additional Site Plan Information.**

In addition to the information required in Section 18.03, the information listed below shall also be submitted for any lot or parcel within the Highway Overlay District.

1. Existing access points. Existing access points within 500 feet on either side of the corridor frontage, and along both sides of any adjoining roads, shall be shown on the site plan, aerial photographs or on a plan sheet.

2. Surface type and dimensions for all existing and proposed driveways (width, radii, throat length, length of any deceleration lanes or tapers, pavement markings and internal traffic signs), intersecting streets, and all curb radii within the site.
3. The site plan shall illustrate the route and dimensioned turning movements of any passenger vehicles as well as expected truck traffic, tankers, delivery vehicles, waste receptacle vehicles and similar vehicles. The plan should confirm that routing of vehicles will not disrupt operations at the access points nor impede maneuvering or parking within the site.
4. The applicant shall submit evidence indicating that the sight distance, driveway spacing and drainage requirements of the Michigan Department of Transportation or Mason County Road Commission are met.
5. Dimensions between proposed and existing access points on both sides of the highway or road (and median cross-overs if applicable now or known in the future).
6. Design dimensions and justification for any alternative or innovative access design such as frontage roads, rear access or service drives, or parking lot cross-access.
7. The location of all proposed snow storage from parking lots which must not interfere with clear sight distance when turning into or out of a site, or safely moving within a site.
8. Traffic impact analysis meeting the requirements of Section 18.12, where applicable.
9. The applicant shall submit evidence indicating that the drainage standards from the Mason County Drain Commissioner are met.

#### **Section 21.04 Review and Approval Process.**

1. The review and approval process for the Highway Overlay district shall be addressed through the site plan approval process in Article 18.
2. The Zoning Administrator shall obtain comments from the access management advisory committee. Comments shall be provided to the Planning Commission for their site plan deliberation.

#### **Section 21.05 Access.**

1. All land in a parcel or lot registered with the County Register of Deeds or which has been approved through the Land Division process as described in MCL 560.101, *et seq.*, as of the effective date of the amendment adding this section to the ordinance, that shares a lot line for less than six hundred (600) feet with right-of-way on the corridor shall be entitled to reasonable access from said public road or highway, unless hereafter shared access or alternative access is provided to that parcel.
  - a. All subsequent land divisions of a parent parcel, shall not increase the number of driveways or road accesses beyond those entitled to the parent parcel on the effective date of this amendment.
  - b. Parcels subsequently divided from the parent parcel, either by metes and bounds descriptions, or as a plat under the applicable provisions of the Land Division Act, Public Act 288 of 1967, as amended, or developed as a condominium project in accord with the Condominium Act, Public Act 59 of 1978, as amended, shall have access by a platted subdivision road, by another public road, by an approved private road, frontage road or rear service drive as appropriate.
2. Parent parcels with more than six hundred (600) feet of frontage on a public road or highway shall also meet the requirements of this section, except that whether subsequently divided or not, they are entitled to not more than one additional driveway for each six hundred (600) feet of public road frontage thereafter, unless a registered traffic engineer determines to the satisfaction of the Planning Commission and the Michigan Department of Transportation that topographic conditions on the site,

curvature on the road, and sight distance limitations all demonstrate an additional driveway within a lesser distance is safer or the nature of the land use to be served requires an additional driveway for improved safety.

#### **Section 21.06 Applications.**

1. After site plan approval, applications for driveway or access approval shall be made on a form prescribed by and available at the Michigan Department of Transportation and Mason County Road Commission as applicable. A copy of the completed form submitted to the applicable road authority shall be submitted to the Zoning Administrator as well. Such applications shall only be submitted in conjunction with or after site plan approval.
2. Applications for all uses requiring site plan review shall meet the submittal, review and approval requirements of Article 18 and, in addition to the required information of Section 21.03, the Planning Commission may require the following improvements (with comment from the access management advisory committee):
  - 1) Shared driveways.
  - 2) Cross access agreements
  - 3) Service drives: front and/or rear.
  - 4) Parking lot connections with adjacent property.
  - 5) Deceleration lanes.
  - 6) Other appropriate designs to limit access points on an arterial or collector including but not limited to relocation of driveways, closing driveways or consolidating driveways.

#### **Section 21.07 Change of Use Also May Require New Driveway.**

When a building permit is sought for the reconstruction, rehabilitation or expansion of an existing site or a zoning or occupancy certificate is sought for use or change of use for any land, buildings, or structures, all of the existing, as well as proposed driveway approaches and parking facilities shall comply, or be brought into compliance, with all design standards as required by this ordinance, the Michigan Department of Transportation and/or the Mason County Road Commission as applicable.

#### **Section 21.08 Closing of Driveways.**

Application to construct or reconstruct any driveway entrance and approach to a site shall also cover the reconstruction or closing of all nonconforming or unnecessary entrances and approaches to the same site at the expense of the property owner.

#### **Section 21.09 Access Management Standards**

No road, driveway, shared access, parking lot cross-access, service road, or other access arrangement to all lots and parcels within the Highway Overlay District shall be established, reconstructed or removed without first meeting the requirements of this Section.

1. Each lot/parcel of record as of the adopting of this District with highway frontage on the corridor shall be permitted reasonable access. This access may consist of an individual driveway, a shared access with an adjacent use, or access via a service drive or frontage road. In determining access, the Planning Commission shall seek the recommendation of the access management advisory group.

2. When alternatives to a single, two-way driveway are necessary to provide reasonable driveway access to property fronting on the corridor and shared access or a service drive are not a viable option, the following progression of alternatives should be used:
  - a. Additional ingress/egress lanes on one (1) standard, two-way driveway;
  - b. Two (2), one-way driveways;
  - c. Additional ingress/egress lanes on two (2), one-way driveways;
  - d. Additional driveway(s) on an abutting street with a lower functional classification;
  - e. Additional driveway on arterial street.
3. Driveways and new intersecting streets shall provide the following spacing from other access points along the same side of the public street (measured from centerline to centerline of each access point), based on the posted speed limit along the public street segment, unless the appropriate road authority approves closer spacing based on the land use characteristics, lot size, and/or restricted turns in the driveway design.

**TABLE 21-1  
DRIVEWAY SPACING ACCORDING TO SPEED LIMIT**

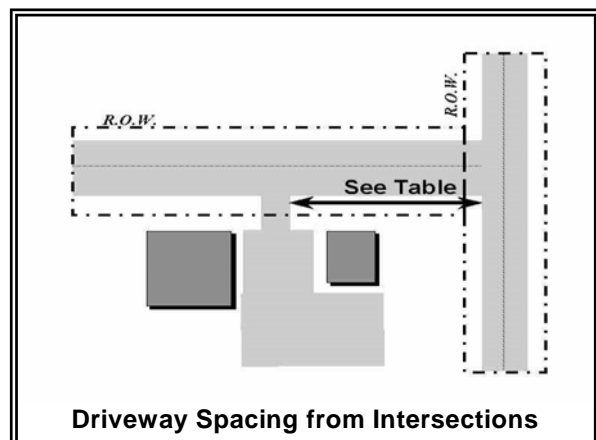
<b>Posted Speed Limit</b>	<b>Along the corridor*</b>	<b>Along Other Intersecting Primaries</b>	<b>Along all Other Intersecting Streets</b>
35 mph or less	245 ft.	245 ft.	150 ft.
40 mph	300 ft.	300 ft.	185 ft.
45 mph	350 ft.	350 ft.	230 ft.
50 mph	455 ft.	455 ft.	275 ft.
55 mph	455 ft.	455 ft.	350 ft.

\* Unless greater spacing is required by MDOT and/or the Mason County Road Commission.

4. Where the subject site adjoins land that may be developed or redeveloped in the future, including adjacent lands or potential outlots, the access shall be located to ensure the adjacent site(s) can also meet the access location standards in the future.
5. Driveways or new intersecting streets along sections of the corridor with an existing or planned median shall be located in consideration of existing or approved median crossovers. A sufficient length for weaving across travel lanes and storage within the median shall be provided, consistent with MDOT published standards.

**FIGURE 21-1  
DRIVEWAY DISTANCE FROM INTERSECTING STREETS**

6. Driveways and new intersecting streets shall be aligned with driveways on the opposite side of the street or offset a minimum of 250 feet, centerline to centerline wherever feasible. The Planning Commission may reduce this to not less than 150 feet where each of the opposing access points generates less than 50 trips (inbound and outbound) during the peak hour of the public street or where sight distance limitations exist, or shall rely on the best option identified by MDOT.



7. Minimum spacing of driveways from intersections shall be in accordance with the table below (measured from pavement edge to pavement edge) unless MDOT authorizes a lesser spacing:

**TABLE 21-2  
MINIMUM SPACING OF DRIVEWAYS FROM INTERSECTIONS**

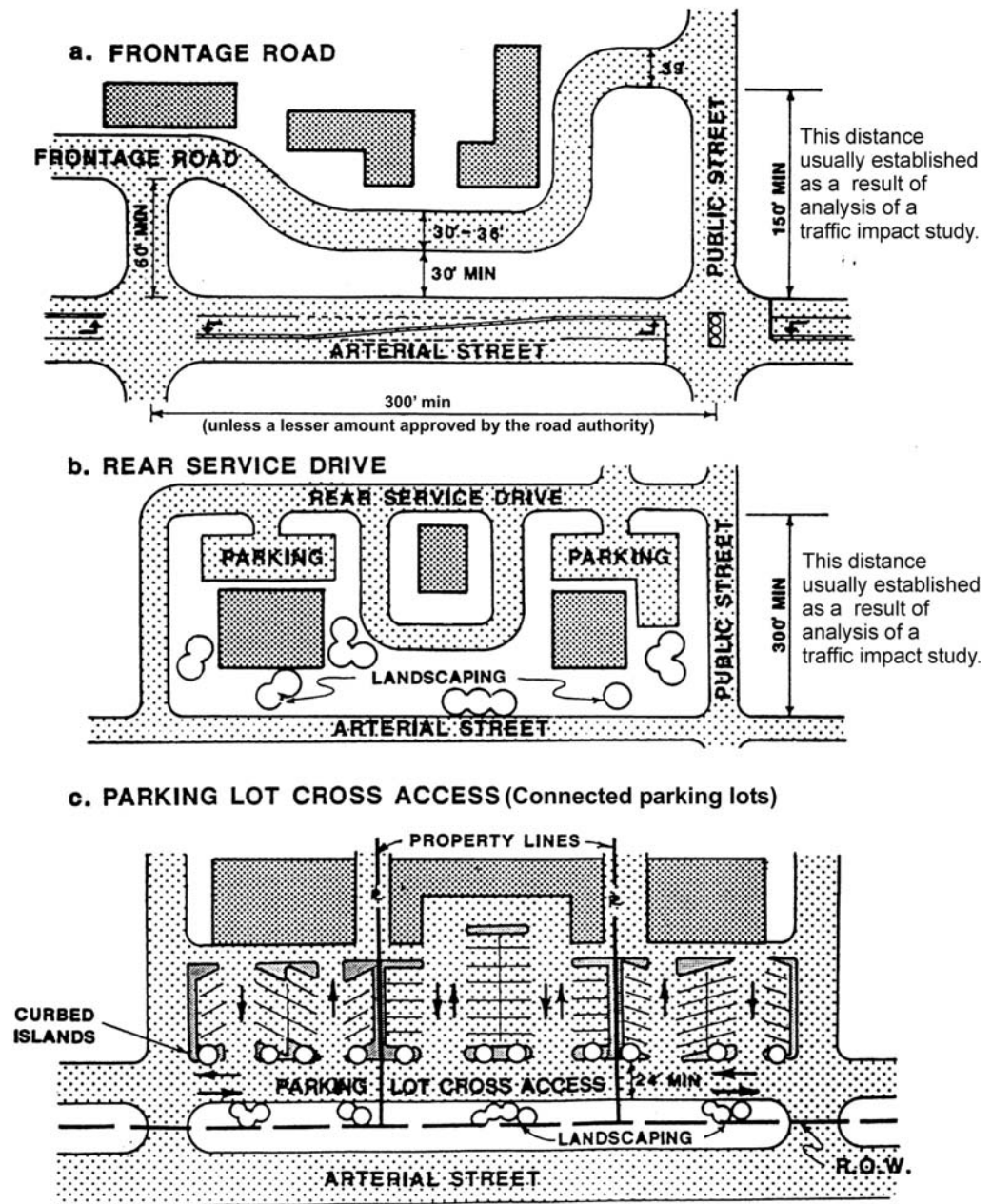
<b>Signalized Locations*</b>	<b>Distance in Feet</b>	<b>Unsignalized Locations</b>	<b>Distance in Feet</b>
Along the corridor	300	Along the corridor	300
Along other public streets	200	Intersections intersecting the corridor	300
		Other intersections	150

\* Spacing for signalized intersections shall also be applied at intersections where MDOT and/or the Mason County Road Commission indicates that spacing and approach volumes may warrant a signal in the future.

8. Where direct access consistent with the various standards above cannot be achieved, access should be via a shared driveway or service drive. In particular, the Planning Commission may require development of frontage roads, or rear service drives where such facilities can provide access to signalized intersections, where service drives may minimize the number of driveways, and as a means to ensure that traffic is able to more efficiently and safely ingress and egress.
- 9.
- a. Sharing or joint use of a driveway by two or more property owners may be required. In cases where access is restricted by the spacing requirements of this section a shared driveway may be the only access design allowed. The shared driveway shall be constructed along the midpoint between the two properties unless a written easement recorded with the County Register of Deeds is provided which allows traffic to travel across one parcel to access another, and/or access the public street.
  - b. In cases where a shared access facility is recommended, but is not yet available, temporary direct access may be permitted, provided the site plan is designed to accommodate the future service drive, and a written agreement is submitted that the temporary access will be removed by the applicant, when the alternative access system becomes available. This shall require posting of a performance guarantee to cover the cost of removing the temporary driveway if the applicant or then owner does not remove the temporary driveway once a permanent driveway is established.
10. Frontage roads or service drives (see Figure 21-1) shall be designed, constructed and maintained in accordance with the following standards:
- a. Location - Frontage roads or service drives shall generally be parallel to the front property line and may be located either in front of, or behind, principal buildings and may be placed in required yards. In considering the most appropriate alignment for a service road, the Planning Commission shall consider the setbacks of existing and/or proposed buildings and anticipated traffic flow for the site.
  - b. Alignment - The alignment of the service drive can be refined to meet the needs of the site and anticipated traffic conditions, provided the resulting terminus allows the drive to be extended through the adjacent site(s). This determination may require use of aerial photographs, property line maps, topographic information and other supporting documentation.
  - c. Setback - Service drives and frontage roads shall be set back as far as reasonably possible from the intersection of the access driveway with the public street. A minimum of thirty (30) feet shall be maintained between the public street right-of-way and the pavement of the frontage road, with a minimum sixty (60) feet of throat depth provided at the access point. The access point location shall conform with all the applicable standards of this Ordinance.
  - d. Access Easement - A frontage road or service drive shall be within an access easement permitting traffic circulation between properties. The easement shall be recorded with the County

Register of Deeds. In a Commercial District a frontage road or service drive shall have a minimum pavement width of twenty-four (24) feet, measured face to face of curb with an approach width of thirty-six (36) feet at intersections. The frontage road or service drive shall be constructed to meet Mason County Road Commission standards for base and thickness of asphalt or concrete. In a residential district, a frontage road shall be a minimum of 20'. Curbing and asphalt are not required but construction design shall meet the standards of the Mason County Road Commission and the Mason County Drain Commission.

**FIGURE 21-1  
FRONTAGE ROADS AND SERVICE DRIVES**





- e. Service Drive Maintenance - No service drive shall be established on existing public right-of-way. The service drive shall be a public street (if dedicated to and accepted by the public), or a private road maintained by the adjoining property owners it serves who shall enter into a formal agreement for the joint maintenance of the service drive. This agreement shall be approved by the applicant, approved by the county attorney and recorded with the deed for each property it serves by the County Register of Deeds. If the service drive is a private road, the County shall reserve the right to make repairs or improvements to the service drive and charge back the costs directly or by special assessment to the benefiting landowners if they fail to properly maintain a service drive.
- f. Landscaping - Landscaping along the service drive shall conform with the requirements of Section 3.04, 3.13 and 3.14 of the Ordinance.
- g. Parking Areas shall be delineated and separated from service drives and shall not be used for loading spaces.
- h. Pavement markings shall be provided to promote safety and efficient circulation. The property owner shall be required to maintain all pavement markings. All directional signs and pavement markings along the service drive shall conform with the current Michigan Manual of Uniform Traffic Control Devices.
- i. Assumed Width of Pre-existing Service Drives - Where a service drive in existence prior to the effective date of this provision has no recorded width, the width will be considered to be forty (40) feet for the purposes of establishing setbacks and measured an equal distance from the midpoint of the road surface.
- j. Pedestrian and Bicycle Access - Separate, safe access for pedestrians and bicycles shall be provided on a sidewalk or paved path that generally parallels the service drive unless alternate and comparable facilities are approved by the Planning Commission.
- k. Roads not parallel with the main roadway shall have a designated name on a sign meeting the standards for emergency services and the Mason County Road Commission.
- l. Pre-existing Conditions - In the case of expansion, alteration or redesign of existing development, where it can be demonstrated that pre-existing conditions prohibit installation of a frontage road or service drive in accordance with the aforementioned standards, the Planning Commission may permit alternative cross access between adjacent parking areas through the interconnection of main circulation aisles or as rear access.
- m. All cross access areas shall be clearly defined with islands, curbing, landscaping and signage, as deemed necessary to delineate the edges of the route to be used by through traffic.

#### **Section 21.10 Inspection.**

The Zoning Administrator or designated staff shall inspect the driveway and any other required access elements during construction and following construction for conformance with the approved site plan prior to allowing occupancy. The Zoning Administrator may consult with MDOT and/or the County Road Commission as applicable, prior to making a determination of conformance or nonconformance with an approved application.

**ARTICLE XXII  
REGULATION OF CONDOMINIUM DEVELOPMENTS**

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**Section 22.01 Application.**

The following regulation shall apply to all condominium developments within Mason County and under County Zoning.

**Section 22.02 General Requirements.**

All condominium developments within Mason County shall be subject to all density requirements and standards of the applicable zoning district, except as specifically provided herein. All condominium developments shall also be serviced by a public water supply and public sanitary sewage system where available.

**Section 22.03 Initial Information.**

1. Concurrent with the notice required to be given Mason County, pursuant to Section 71 of PA of 1978, as amended (the Condominium Act), a person, firm, corporation intending to develop a condominium development in the County shall provide the following information:
  - a. The name, address, and telephone number of:
    - 1.) All person, firms, or corporations with, and ownership interest in, the land on which the condominium development will be located together with a description of the nature of each entity's interest (for example, fee owner, optionee, or land contract vendee).
    - 2.) All engineers, attorneys, architects, or registered land surveyors associated with the project.
    - 3.) The developer or proprietor of the condominium development.
  - b. The legal description of the land on which the condominium development will be developed together with any proposed expansion plans and appropriate tax identification numbers.
  - c. The acreage of the land on which the condominium development will be developed.
  - d. The purpose of the development (for example, residential, commercial, industrial, etc.)
  - e. Approximate number of condominium units to be developed on the subject parcel.
  - f. Whether or not a public water system is contemplated.
  - g. Whether or not a public sewer system is contemplated.

**Section 22.04 Information to be Kept Current.**

The information shall be furnished to the Zoning Administrator and shall be kept updated until such time as a zoning permit has been issued.

**Section 22.05 Site Plans for New Projects.**

Prior to recording of the Master Deed required by Section 72 of PA 59 of 1978, as amended, the condominium development shall undergo site plan review and approval pursuant to Article XVIII of this

Ordinance. In addition, the County shall require appropriate engineering plans and inspections prior to the issuance of any Certificate of Zoning Compliance.

#### **Section 22.06 Site Plans for Expandable or Convertible Project.**

Prior to expansion of or conversion to a condominium development, the project shall undergo site plan review and approval pursuant to Article XVIII of this Ordinance. As part of the site plan review record, it shall be recognized that the development may be nonconforming with current zoning regulations

#### **Section 22.07 Master Deed, Restrictive Covenants, and "As Built" Survey.**

The condominium development developer or proprietor shall furnish Mason County with the following: two (2) certified copies of the Master Deed, two (2) copies of all restrictive covenants, and two (2) copies of an "as built" survey. One (1) copy of each of the above shall be provided to the County Zoning Administrator and one (1) copy to the Mason County Assessor. The "as built" survey shall be reviewed by the Zoning Administrator for compliance with County Ordinances. Fees for this review shall be established by resolution of the County Board of Commissioners. One element of these documents shall be the manner of open space maintenance.

#### **Section 22.08 Monuments Required.**

1. All condominium developments, which consist in whole or in part of condominium units which are building sites, mobile home sites, or recreational sites, shall be marked with monuments as provided in this subsection. All work shall be accomplished by a registered surveyor.
  - a. All monuments used shall be made of solid iron or steel bars at least one-half inch in diameter and thirty-six (36) inches long and completely encased in concrete at least four (4) inches in diameter.
  - b. Monuments shall be located in the ground at all angles in the boundaries of the condominium development; at the intersection lines of streets and at the intersection of the lines of streets with the boundaries of the condominium development; at all points of curvature, points of tangency, points of compound curvature, points of reverse curvature and angle points in the side lines of streets and alleys; and at all angles of an intermediate traverse line.
  - c. It is not intended or required that monuments be placed within the traveled portion of a street to mark angles in the boundary of the condominium development if the angle points can be readily re-established by reference to monuments along the sidelines of the streets.
  - d. If the required location of a monument is an inaccessible place, or where the locating of a monument would be clearly impracticable, it is sufficient to place a reference monument nearby and the precise location thereof will be clearly indicated on the plans and referenced to the true point.
  - e. If a point required to be monumented is on bedrock outcropping, a steel rod, at least one half inch in diameter shall be drilled and grouted into solid rock to a depth of at least eight (8) inches.
  - f. All required monuments shall be placed flush with the ground where practicable.
  - g. All units, corners, and the intersection of all limited common elements and all common elements shall be monumented by iron or steel bars or iron pipes at least eighteen (18) inches long and one-half inch in diameter, or other approved markers.
  - h. The Planning Commission may waive the placing of any of the required monuments and markers for a reasonable time, not to exceed one (1) year, on the condition that the proprietor deposits with the County Treasurer cash or a certified check, or irrevocable bank letter of credit to Mason County, whichever the proprietor selects in an amount to be established by the County Board of

Commissioners. Such cash, certified check, or irrevocable bank letter of credit shall be returned to the proprietor upon receipt of a certificate by a surveyor that the monuments and markers have been placed as required within the time specified.

#### **Section 22.09 Compliance with Federal, State, and Local Law.**

All Condominium developments shall comply with federal and state statutes and local ordinances.

#### **Section 22.10 Occupancy of Condominium Development.**

The Planning Commission may allow occupancy of the condominium development before all improvements required by this Ordinance are installed provided that cash, a certified check, or an irrevocable bank letter of credit is submitted in an amount approved by the County Board of Commissioners sufficient to provide for the installation of improvements before the expiration of the temporary occupancy permit without expense to the County.

#### **Section 22.11 Single-family Detached Condominiums.**

1. Single-family detached condominium developments shall be located in a residential district and shall be subject to all requirements and standards of the applicable residential district.
2. Single-family detached condominium project shall be subject to the requirements of Mason County, as provided by the Mason County Zoning Ordinance.
3. Roadways within a single-family condominium project shall be constructed in accordance with minimum road standards approved by the County Road Commission. Such minimum standards shall be designed to permit access by residents and public safety vehicles at all times.
4. The natural features and character of lands must be preserved wherever possible. Due regard must be shown for all natural features such as large trees, natural groves, water courses, and similar community assets that will add attractiveness and value to the property, if preserved. The preservation of drainage and natural stream channels must be considered by the proprietor and the dedication and provision of adequate protection, where appropriate, shall be required.
5. Walkways shall be installed in all single-family detached condominium developments. Such walkways shall be a minimum of three (3) feet in width and be so located as to provide access to all general common areas. Upon review of the site plan, the Planning Commission may approve alternate locations for the walkways or may waive the walkway requirement if it would not serve the purpose of providing adequate pedestrian circulation.
6. All unimproved surface area of the site shall be planted with grass, ground cover, shrubbery, or other suitable landscape materials, except that patios, terraces, decks, and similar site features may be allowed.
7. Utilities
  - a. An adequate storm drainage system including necessary storm sewers, catch basins, manholes, culverts, bridges, and other appurtenances shall be required in all developments.
  - b. A sanitary sewer system shall be required as regulated by the State of Michigan.
  - c. A water supply system shall be required as regulated by the State of Michigan.
  - d. The proprietor shall make arrangements for all lines for telephone, electric, television, and other similar services distributed by wire or cable to be placed underground entirely throughout the development area. Such conduits or cable shall be placed within easements of record provided to such service companies by the developer or within dedicated public ways. Overhead lines may be permitted upon written recommendation of the Zoning Administrator and the approval of

the Planning Commission at the time of site plan approval where it is determined that overhead lines will not constitute a detriment to the health, safety, general welfare, design, and character of the development.

- e. All such facilities placed in dedicated public ways shall be planned so as not to conflict with other underground utilities. All such facilities shall be constructed in accordance with standards of construction approved by the Michigan Public Service Commission. All drainage and underground utility installations which traverse privately held property shall be protected by easements granted by the proprietor.

## **ARTICLE XXIII PLANNED UNIT DEVELOPMENT DISTRICT**

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### **Section 23.01 Intent.**

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

### **Section 23.02 Application of Planned Unit Development Provisions.**

1. Minimum Parcel Criteria: The provisions of this Article may be applied to any parcel of land twenty (20) acres or greater, located in any zoning district which allows residential development, and is under single ownership and for which an application for a planned unit development is made as provided herein. In addition to the required residential land area, property zoned for commercial use, which is under the same ownership as the aforementioned residentially zoned property, may be included as a part of the overall planned unit development proposal.
2. Exceptions to Minimum Parcel Criteria: Notwithstanding the provisions of Section 23.02.1., an application for a planned unit development on a parcel of land of less than twenty (20) acres may be submitted if the Planning Commission finds, based upon information provided by the landowner, that the minimum area requirement should be waived because a planned unit development is in the public interest and that one (1) or more of the following conditions exist:
  - a. The parcel of land, or the neighborhood in which it is located, has an unusual physical feature(s) that will be conserved by employing the provisions of this Article;
  - b. The parcel of land has a historical character of importance to the County that will be protected by employing the provisions of this Article; or
  - c. The parcel of land is adjacent to, or across the road from, a parcel which has been developed as a planned unit development and such will contribute to the maintenance of the amenities and values of the neighboring development.
3. Application Criteria: An applicant for planned unit development must demonstrate all of the following:
  - a. Application of the planned unit development provisions will result in one of the following:
    - 1.) A recognizable and material benefit to the future residents of the project as well as the community, where such benefit would otherwise be unfeasible or unlikely without application of the planned unit development provisions; or
    - 2.) The long-term conservation of natural features and the environmental character to the County will be achieved; or
    - 3.) A nonconforming use shall be rendered more conforming to the zoning district in which it is situated.

- b. The proposed type and density of use shall not result in an unreasonable increased burden upon public services, facilities, and/or utilities in comparison to the use or uses otherwise permitted by the underlying zoning district.
- c. The proposed planned unit development shall not result in any unreasonable negative economic impacts on the surrounding properties.

### **Section 23.03 Design Standards.**

- 1 A planned unit development proposal shall be consistent with the statement of purpose of this Article as well as the following general standards for the use of land, the type, bulk, design, and location of buildings, the density of use, common open space and public facility requirements, and the development of geographic divisions of the site.
  - a. Residential Dwellings: The plan may provide for a variety of permanent housing types, including both detached and attached single-family dwellings, manufactured homes, and multiple-family dwellings, but not mobile homes, as herein defined. Single-family attached dwelling and cluster housing can be used as a means of conserving natural features and providing additional common open space.
  - b. Permitted Residential Density: The permitted residential density shall be determined based on the maximum density permitted by the underlying zoning district, as modified by the following formula:
    - 1.) Gross parcel area minus the area occupied by proposed or existing dedicated public rights-of-way, and minus eighty (80) percent of the area occupied by any wetlands, and floodplain areas. The resulting land area shall be divided by the minimum lot size of the underlying zoning district to establish the maximum number of permitted dwelling units.
    - 2.) The minimum permitted lot size for a detached single-family dwelling in areas not served by public sewer and water shall be determined by the Mason County Health Department standards. The minimum permitted lot size for a detached single-family dwelling in areas served by public sewer and water shall not be less than eleven-thousand (11,000) square feet.
  - c. Common Open Space: All planned unit developments shall maintain a minimum of fifty (50) percent of the parcel as common open space which is readily accessible and available to the residents of the planned unit development. A portion of the common open space requirement may be fulfilled by wetland, floodplain, and/or open water areas, provided that not more than twenty-five (25) percent of the designated common open space area is wetland area, floodplain area, and/or open water.
  - d. Educational and Recreational Uses: Both public and private nonresidential uses of an educational or recreational nature, including but not limited to golf courses, tennis clubs, swim clubs, riding stables, and necessary accessory uses and structures, designed as an integral part of the overall planned unit development, may occupy appropriate portions of the site. The area so occupied may be applied, at the discretion of the Planning Commission, to satisfy a percentage of the total common open space requirement. Developed recreational uses such as tennis clubs, swim clubs, riding stables, and the like, may be used to satisfy twenty-five (25) percent of the common open space requirement. Golf courses may be used to satisfy up to sixty (60) percent of the common open space requirement, provided such use is integrated into the overall development.
  - e. Commercial Uses: Commercial uses together with such other uses deemed consistent with the overall development plan, may occupy up to ten (10) percent of the gross area.
    - 1.) The following commercial uses may be permitted within a planned unit development:

- a.) Professional offices including but not limited to the offices of a lawyer, accountant, insurance agent, real estate broker, architect, engineer, doctor, dentist, or similar occupation.
  - b.) Banks, credit unions, savings and loan associations, and similar financial institutions.
  - c.) Retail businesses which supply commodities on the premises such as, but not limited to, groceries, meats, dairy products, baked goods, drugs, dry goods, clothing, notions, hardware, books, and similar establishments.
  - d.) Personal service establishments which perform services on the premises such as but not limited to repair shops (watches, electronics, shoes, etc.), tailor shops, beauty parlors, barber shops, photographic studios, and dry cleaners.
- 2.) Adjacent property which is zoned commercial and included as part of the planned unit development proposal shall not be subject to this subsection.
  - 3.) Planned commercial uses shall be accessed by public roads and sited in such a manner as to not encourage through traffic within the planned unit development or adjacent residential areas.
  - 4.) Approval of commercial uses shall be dependent upon the market potential or demand for the uses in the area. The developer shall submit sufficient evidence to justify the need for commercial uses within the planned unit development.
- f. Off-Street Parking and Loading: Off-street parking and loading/unloading spaces shall be provided in accordance with Article XIX of this Ordinance.
  - g. Other Site Improvements: Signage, lighting, landscaping, exterior building materials, and other features of the project shall be designed and constructed with the objective of creating an integrated and controlled development, consistent with the character of the community, the surrounding developments, and the site's natural features.
  - h. Perimeter Setback and Buffering: The proposed location and arrangement of structures shall not be materially detrimental to existing or prospective adjacent structures or to existing or prospective development of the neighborhood. There shall be a perimeter setback and landscaping and/or berming, as recommended by the Planning Commission, for the purpose of buffering the adjacent properties from the planned unit development. The setback distance and buffering treatment need not be uniform at all points on the perimeter of the development.
  - i. However, in cases where nonresidential uses in the planned unit development are adjacent to residentially zoned property, such uses shall be visually screened by a landscape berm, evergreen screen, or a decorative wall.
  - j. Phasing: Each residential development phase shall be designed to stand alone and provide a residential environment which is compatible with the surrounding existing development. Deviations from the number of dwelling units per acre established for the entire planned unit development may be permitted within certain development phases as long as the number of dwelling units authorized per acre is not affected. Further, each development phase shall be designed to provide a proportional amount of common open space in each proposed phase.
  - k. A minimum of fifty (50) percent of the total number of residential dwelling units in any planned unit development must be constructed and be ready for sale prior to the construction of any commercial portion of the planned unit development, except that site grading, road construction, and utility installations related to the commercial portions of the planned unit development may be



undertaken concurrent with the development of residential units and public or private recreation uses. However, based on supportive evidence provided by a professional market study, the Planning Commission may authorize the construction of commercial uses prior to the completion of fifty (50) percent of the total number of residential dwelling units.

- I. Planned Unit Development Agreement: The plan shall contain such proposed covenants, deed restrictions, easements, and other provisions relating to the bulk, location, and density of such residential units, nonresidential uses and public facilities, and provisions for the ownership and maintenance of the common open space as are necessary for the welfare of the planned unit development and are not inconsistent with the best interests of the County. Said covenants, deed restrictions, easements, and other provisions, which are a part of the plan as finally approved, may be modified, removed, or released only in accordance with regulations and standards as may be subsequently set forth by the Planning Commission. The enforcement of covenants, deed restrictions, and easements shall be carried out by an association formed by the residents of the planned unit development. Further, the bylaws of such association shall provide for the assessment of fees to finance enforcement actions undertaken by the association. This agreement shall include a provision that the County does have the right to enforce the deed restrictions and covenants.
- m. The landowner shall make such easements, covenants, and other arrangements, and shall furnish such performance guarantees, as may be required, to assure performance in accordance with the plan and to protect the public interest in the event of abandonment of proposed development before completion.
- n. Land Division Requirements: All portions of the planned unit development, including single-family lots, multiple-family dwellings, commercial areas, and public and private recreational uses, and common open space areas shall be platted in conformance with the requirements of the State of Michigan Subdivision Control Act, PA 288 of 1967, as amended, and with this ordinance; or prepared in conformance with the requirements of the State of Michigan Condominium Act, PA 59 of 1978 and the condominium provisions of this Ordinance.

#### **Section 23.04 Procedure for Review and Approval.**

##### **1. Optional Conceptual Planned Unit Development Submittal.**

An applicant for planned unit development approval may prepare a conceptual planned unit development submittal to provide the Planning Commission with a general overview of the proposed planned unit development. The conceptual submittal shall be processed in accordance with the following procedures.

- a. The applicant shall provide twenty (20) copies of the conceptual submittal to the Zoning Administrator at least fourteen (14) days prior to the meeting at which the submittal is to be presented. The Zoning Administrator shall review the submittal to determine that all the required information has been provided. Upon finding that the submittal is complete, the Zoning Administrator shall place the conceptual submittal on the Planning Commission's agenda. If the submittal is not complete, the Zoning Administrator shall return the application with a letter detailing the deficiencies.
- b. The following minimum information must be provided as part of the concept submittal.
  - 1.) Statement of purpose, objectives, and development program including:
    - a.) Discussion of the rationale for employing the planned unit development provisions rather than developing the project conventionally.
    - b.) Total project area.

- c.) Description of existing site characteristics.
  - d.) Description of proposed character of the development.
  - e.) Densities, areas and setbacks for various residential types.
  - f.) Area and percent of developed and undeveloped open spaces.
  - g.) Discussion of proposed means of serving the development with water, sanitary waste disposal, and storm water drainage.
  - h.) Proposed project phasing and estimated timing schedule by phase to completion.
  - i.) Statement of anticipated impact on natural features, public facilities, and services such as but not limited to police and fire protection, roads, and schools.
  - j.) Overall map at a minimum scale of one (1) inch equals two-thousand (2,000) feet showing the relationship of the proposed planned unit development to its surroundings, including section lines, parcel boundaries, major roads, collector streets, among other landmarks.
  - k.) Generalized graphic depiction at a scale of one (1) inch equals two-hundred (200) feet showing the following:
    - i. Major access roads serving the site, including rights-of-way widths, and existing and proposed road surfacing.
    - ii. Existing utility lines including sanitary sewer, storm sewer, water main, and gas and electric service.
    - iii. Existing adjacent land uses and structures within two-hundred (200) feet of the proposed planned unit development boundary.
    - iv. Proposed internal pedestrian and vehicular circulation system.
    - v. Areas to be developed for residential, commercial, recreational, and common open space uses and structure locations.
    - vi. Areas to be preserved in a natural state.
    - vii. Other data or graphics which will serve to further describe the proposed planned unit development.
  - c. The Planning Commission shall review the concept plan with the applicant, shall inform the applicant of the County's development policies, and shall make comments and suggestions about the proposed concept plan. The Planning Commission may refer appropriate portions of the submittal to the County Attorney and appropriate County agencies for review and comment, prior to making comments and suggestions to the applicant. The Planning Commission shall report the final results of this review in writing to the County Board of Commissioners.
2. Preliminary Planned Unit Development Submittal, a preliminary planned unit development submittal shall be processed in accordance with the following procedures:
- a. The applicant shall provide twenty (20) copies of the preliminary planned unit development submittal to the Zoning Administrator at least fourteen (14) days prior to the meeting at which the submittal is to be presented. The Zoning Administrator shall review the submittal to determine

that all the required information has been provided. Upon finding that the submittal is complete, the Zoning Administrator shall place the preliminary submittal on the Planning Commission's agenda. If the application is not complete, the zoning administration shall return the application with a written statement of deficiencies.

- b. The following minimum information must be provided by the preliminary planned unit development submittal. If the applicant did not prepare a conceptual submittal, the preliminary planned unit development submittal shall also include the information required in that submittal.

#### Existing Site Features

- 1.) An overall area map at a scale of not less than one (1) inch equals two-thousand (2,000) feet showing the relationship of the planned unit development to its surroundings such as section lines and/or major roads or collector streets.
- 2.) Physical development plan prepared at a minimum scale of one (1) inch equals one-hundred (100) feet.
- 3.) Boundaries of proposed planned unit development, section or corporation lines within or adjacent to the tract, and overall property dimensions.
- 4.) Property lines of adjacent tracts of subdivided and un-subdivided land shown in relation to the proposed planned unit development site, including those of areas across abutting roads.
- 5.) Location, widths, and names of existing or prior platted streets and private streets, and public easements within or adjacent to the proposed planned unit development site, including those located across abutting roads.
- 6.) Location of existing sewers, water mains, storm drains, and other underground facilities within or adjacent to the proposed planned unit development site.
- 7.) Topography drawn at a two (2) foot contour interval. Topography must be based on United States Geologic Survey (USGS) datum and be extended a minimum distance of two-hundred (200) feet outside the proposed planned unit development boundaries.
- 8.) Layout of internal roads indicating proposed road names, right-of-way widths, and connections to adjoining platted roads, and also the widths and location of alleys, easements, and pedestrian ways.
- 9.) Layout, numbers, and dimensions of single-family lots, including building setback lines.
- 10.) Layout of proposed multiple-family dwellings, including setbacks, buildings, drives, parking spaces, pedestrian ways, and landscaping.
- 11.) Location and function of both developed and undeveloped open spaces, as well as the layout of facilities to be included on developed open spaces.
- 12.) Depiction of major wooded areas and description of means to be employed to preserve them.
- 13.) An indication of ownership and existing and proposed use of any parcels identified as "excepted."
- 14.) An indication of the proposed sewage, water supply, and storm drainage system. If county drains are involved, the proposed drainage shall be acceptable to the Mason County Drain Commissioner.

15.) Conceptual site grading and conceptual landscaping plans.

16.) Depiction of proposed development phases.

17.) Architectural renderings of typical structures and landscape improvements, in detail sufficient to depict the basic architectural intent of the improvements.

18.) Tabulations

- a.) Total site acreage and percent of total project in various uses, including developed and undeveloped open space.
- b.) Total site density of single-family and multiple-family dwellings and percent of ground area covered by structures other than detached single-family dwelling units.
- c.) Acreage and number of single-family lots, multiple-family dwellings (including number of bedrooms) to be included in development phases.

19.) Planned Unit Development Agreement

- a.) Legal description of the total site.
  - b.) Statement of developer's interest in the land proposed for development.
  - c.) Statement regarding the manner in which open space is to be maintained.
  - d.) Statement regarding the developer's intentions regarding sale and/or lease of all or portions of the planned unit development, including land areas, units, and recreational facilities.
  - e.) Statement of covenants, grants of easements (including easements for public utilities), and other restrictions to be imposed upon the uses of the land and structures.
  - f.) Statement of required modifications (variances) to the regulations which are otherwise applicable to the site.
  - g.) Schedule indicating the time within which applications for final approval of each phase of the planned unit development are intended to be filed.
- c. The Planning Commission shall accept the submittal and refer the appropriate portions to the County Attorney, and appropriate County agencies for review and recommendation.
- a.) The Planning Commission shall review the preliminary planned unit development submittal as well as the comments from the County Attorney, and appropriate State and County agencies and then set a public hearing to receive citizen input on the proposed planned unit development. Notice of such public hearing shall be given in accordance with Section 25.05 of this ordinance.
- d. Planning Commission shall hold a public hearing to determine that the stated purpose of the Planned Unit Development Ordinance and the specific conditions of Section 23.02.3 exist and the requirements of Section 23.03 have been met. If all conditions are met, the Planning Commission shall approve or approve with conditions the preliminary plan. If all conditions are not met the Planning Commission shall either reject the plan or table action until a satisfactory plan is submitted.

- e. Following approval of the preliminary planned unit development submittal, the Planning Commission shall authorize the developer to prepare the planned unit development agreement and the final planned development submittal.
- f. The developer shall then prepare a planned unit development agreement which is reviewed by the County Attorney.
- g. The Planning Commission shall review the planned unit development agreement and either approve, approve with conditions, or deny the planned unit development agreement.
- h. A final planned unit development submittal for some portion of the planned unit development must be submitted within twenty-four (24) months following approval of the preliminary planned unit development. If no final planned unit development submittal is accepted within that period, approval of the preliminary planned unit development shall automatically expire. However, the County Board of Commissioners, upon written application by the developer, may extend the designation for successive two (2) year periods; provided that no more than two (2) such twenty-four (24) month extensions may be granted.

### 3. Final Planned Unit Development Submittal

The final planned unit development submittal for all or a portion of the total planned unit development shall be reviewed by the Planning Commission and acted upon by the County Board of Commissioners to assure substantial compliance with the preliminary planned unit development submittal.

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

- 1.) Subdivision Plat as Defined by the Land Division Act.

The final planned unit development submittal must be prepared in the form of a preliminary plat in detail sufficient to be granted tentative preliminary plat approval in conformance with the State of Michigan Land Division Act, this Ordinance, and the conditions established in the preliminary planned unit development submittal and planned unit development agreement.

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

- 3.) Condominium Plan as Defined by the Condominium Act

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

- b. The following minimum information must be provided by the developer at the time of filing of a final planned unit development submittal for all or a portion (phase) of a planned unit development:

- 1.) Detailed grading plan.

- 2.) Detailed landscaping plan.

- 3.) Detailed utilities layout.
  - 4.) Total phase acreage and percent of total planned unit development.
  - 5.) Acreage and percent of portion of phase and total planned unit development occupied by single-family, multiple-family, and developed and undeveloped open space.
  - 6.) Total phase density and percent of total planned unit development.
  - 7.) Number of bedrooms per multiple-family dwelling unit by type (i.e., efficiency, one bedroom).
  - 8.) Percent of ground area covered by structures other than detached single-family dwelling units.
  - 9.) Supporting materials
  - 10.) Legal description of the total phase, each use area, and dedicated open space.
  - 11.) Copies of covenants, easements, and other restrictions to be imposed.
  - 12.) Proposed dates of construction start and completion of phase.
- c. The final planned unit development submittal shall not:
- 1.) Vary the proposed gross residential density or intensity of use in any portion of the planned unit development by more than ten (10) percent; or
  - 2.) Involve a reduction of the area set aside for common space; or
  - 3.) Increase by more than ten (10) percent the floor area proposed for nonresidential use; or
  - 4.) Increase by more than five (5) percent the total ground area covered by buildings.
- d. The final planned unit development submittal shall be processed in accordance with the following procedures:
- 1.) The applicant shall provide twenty (20) copies of the final planned unit development submittal to the Zoning Administrator at least fourteen (14) days before the meeting at which the submittal will be presented. The Zoning Administrator shall review the submittal to determine that all the required information has been provided. Upon finding that the submittal is complete, the Zoning Administrator shall place the preliminary submittal on the Planning Commission's agenda. If the plan is found by the Zoning Administrator to be incomplete, the plan shall be returned to the applicant with a written statement of deficiencies.
  - 2.) The Planning Commission shall accept the plan to refer the appropriate portions of the submittal to the County attorney, engineer, and/or planner, as well as the appropriate state and county agencies for review and recommendation
  - 3.) The Planning Commission shall review the final planned unit development submittal to assure conformance with the approved preliminary planned unit development submittal and planned unit development agreement. Within thirty (30) days following receipt of the final planned unit development submittal, the Planning Commission shall approve or, if the final planned unit development submittal deviates from the preliminary planned unit development submittal by more than the limits prescribed in this Ordinance, require modifications to assure conformance.

- e. Before either the Planning Commission recommends final approval or the County Board of Commissioners grants final approval to any planned unit development, the Planning Commission and County Board of Commissioners shall, respectively, determine that:
  - 1.) Provisions, satisfactory to the County Board of Commissioners, have been made to provide for the financing of any improvements shown on the plan for open spaces and common areas which are to be provided by the applicant, and that maintenance of such improvements is assured by a means satisfactory to the County Board of Commissioners.
  - 2.) The cost of installing all streets and necessary utilities has been assured by a means satisfactory to the County Board of Commissioners.
  - 3.) The final plan for any phase is in conformity with the overall comprehensive plan of the entire neighborhood acreage. Any changes or amendments requested shall terminate the overall planned unit development approval until such changes and/or amendments have been reviewed and approved as in the instance of the preliminary submittal.
  - 4.) Proceeding with a planned unit development should only be permitted if it is mutually agreeable to the County Board of Commissioners and the developer.
- f. Following approval of a final planned unit development submittal by the Planning Commission, the developer shall begin processing the plat through the County Board of Commissioners in conformance with the Land Division Act and this Ordinance or the condominium plan through the Planning Commission and County Board of Commissioners in conformance with the Condominium Act and condominium provisions of this Ordinance.

#### **Section 23.05 Appeals.**

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

#### **Section 23.06 Time Limit for Approved Planned Unit Developments.**

- 1. Once the final site plan for the planned unit development is approved, the area subject to the approval must be under construction within twelve (12) months after the date of approval of the planned unit development final development plan, except as noted in this subsection.
- 2. The Planning Commission may grant an extension for a period of time determined by the Planning Commission from the expiration date of the planned unit development or phase of a planned unit development if the applicant applies for such extension at least thirty (30) days prior to the date of the expiration of the planned unit development or planned unit development phase, and provided that:
  - a. The applicant presents reasonable evidence that the development has encountered unforeseen difficulties beyond the control of the applicant; and
  - b. The planned unit development requirements and standards, including those of the Zoning Ordinance, that are reasonably related to the development have not changed. Review of the approved planned unit development final plan shall be required by the Zoning Administrator and/or the Planning Commission; and
  - c. Development or redevelopment in proximity to the approved planned unit development has not resulted in changed conditions impacting the site; and
  - d. Land use designation of the subject site or areas adjacent to the subject site in the Mason County Master Plan has not changed.

3. Should neither of the above provisions be fulfilled, or an extension has expired without construction underway, the planned unit development final plan approval(s) shall be null and void. This does not include any phases that may have previously received final planned unit development approval.



## **ARTICLE XXIV BOARD OF ZONING APPEALS**

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### **Section 24.01 Statement of Purpose.**

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

### **Section 24.02 Creation and Membership.**

1. Establishment: A Zoning Board of Appeals (ZBA), first established by the Zoning Ordinance adopted December 13, 1971, is hereby retained in accordance with the Michigan Zoning Enabling Act, PA 110 of 2006, as amended. The Zoning Board of Appeals shall consist of not less than three (3) nor more than seven (7) members. One member shall be a member of the County Planning Commission and the remaining members appointed by the County Board of Commissioners from the electors residing in the unincorporated area of the County.
2. Conflict of Interest: A member shall disqualify himself or herself from a vote in which the member has a conflict of interest. Conflict of interest shall be assumed if the Board member stands to realize a financial gain or loss as a result of the Board's action. Failure of a member to disqualify himself or herself from a vote in which the member has a conflict of interest constitutes misconduct in office.

### **Section 24.03 Organization.**

1. Rules of Procedure: The Zoning Board of Appeals shall adopt rules of procedure for the conduct of its meetings and the implementation of its duties. The Zoning Board of Appeals shall annually elect a chairperson, a vice chairperson, and a secretary.
2. Meetings and Quorum: Meetings of the Zoning Board of Appeals shall be held at the call of the chairperson and at such other times as the Zoning Board of Appeals' Rules of Procedure may specify. A majority of the total membership of the Board shall comprise a quorum. The Zoning Board of Appeals shall not conduct official business unless a quorum is present. All meetings shall be open to the public and conducted pursuant to the requirements of the Open Meetings Act, PA 267 of 1976.
3. Oaths and Witnesses: The chairperson may administer oaths and compel the attendance of any witness in order to ensure a fair and proper hearing.
4. Records: The minutes of all meetings shall contain the grounds for every determination made by the Zoning Board of Appeals including all evidence and data considered, all findings of fact and conclusions drawn by the Zoning Board of Appeals for every case, along with the vote of each member and the final ruling on each case. The Zoning Board of Appeals shall file its minutes in the office of the County Clerk.
5. Legal Counsel: An attorney for the County shall act as legal counsel for the Zoning Board of Appeals pursuant to procedures established by the County Board of Commissioners.

### **Section 24.04 Jurisdiction.**

The Zoning Board of Appeals shall act upon questions as they arise in the administration of this Ordinance. The Zoning Board of Appeals shall perform its duties and exercise its powers as provided in the Michigan Zoning Enabling Act, PA 110 of 2006, as amended. The Zoning Board of Appeals shall not have the power to alter or change the zoning district classification of any property, nor make any change in the terms or intent of this Ordinance, but does have the power to act on those matters for which this

Ordinance provides an administrative review, interpretation, variance, or temporary land use permit. Within this capacity, the Zoning Board of Appeals may reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination of the Zoning Administrator, Planning Commission, or any official administering or enforcing the provisions of this Ordinance. This jurisdiction shall not include the hearing of appeals related to planned unit development (PUD) decisions. (4-20-05)

#### **Section 24.05 Authorized Appeals.**

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

1. Administrative Review: The Zoning Board of Appeals shall hear and decide appeals where it is alleged by the appellant that there is an error in any order, requirement, permit, decision or refusal made by the Zoning Administrator or by any other official or by the Planning Commission in administering or enforcing the provisions of this Ordinance. This authority shall not include review of PUD decisions of the Planning Commission. (4-20-05)
2. Interpretation of the Ordinance: The Zoning Board of Appeals shall hear and decide upon requests to:
  - a. Interpret the provisions of this Ordinance when it is alleged that certain provisions are not clear or that they could have more than one meaning. In deciding upon such request, the Zoning Board of Appeals shall ensure that its interpretation is consistent with the intent and purpose of the Ordinance, the Article in which the language in question is contained, and all other relevant provisions in the Ordinance.
  - b. Determine the precise location of the boundary lines between zoning districts when there is dissatisfaction with a decision made by the Zoning Administrator.
  - ~~c. Classify a use which is not specifically mentioned as a part of the use regulations of any zoning district so that it conforms to a comparable permitted or prohibited use, in accordance with the purpose and intent of each district. Where there is no comparable permitted or special use in any of the County's zoning districts, the Zoning Board of Appeals shall so declare, the effect being that use is not permitted in the County until or unless the text of the Ordinance is amended to permit it.~~
3. Variance: The Zoning Board of Appeals shall have the power to authorize specific variances from site development requirements such as lot area and width regulations, building height and bulk regulations, yard width and depth regulations, off-street parking and loading space requirements, and sign requirements of this Ordinance, provided that all the required findings listed below are met and the record of proceedings of the Zoning Board of Appeals contains evidence supporting each conclusion. If it is determined that the variance does meet all of the following standards and requirements, the variance shall be allowed. If it is determined that the proposed development use does not meet all of the following requirements, the development use shall not be allowed.
  - a. The strict enforcement of the provisions of this Ordinance would cause a practical difficulty and deprive the owner of rights enjoyed by all other property owners within the same zoning district.
  - b. The conditions and circumstances unique to the property were not created by the owner, or his predecessor in title.
  - c. The requested variance will not grant special privileges that are denied other properties similarly situated and in the same zoning district.
  - d. The requested variance will not be contrary to the spirit and intent of this Zoning Ordinance.

4. A variance under this Ordinance shall not be granted which permits a use not otherwise permitted within the zoning district, upon the property for which a variance is being requested.
5. Conditions: The ZBA may impose conditions upon an affirmative decision. The conditions may include, conditions necessary to ensure that public services and facilities affected by a proposed land use or activity will be capable of accommodating increased service and facility loads caused by the land use or activity, to protect the natural environment and conserve natural resources and energy, to ensure compatibility with adjacent land uses, and to promote the use of land in a socially and economically desirable manner. Conditions imposed shall do all the following:
  - a. Be designed to protect natural resources, the health, safety, and welfare, as well as social and economic well being of those who will use the proposed land use or activity, residents, and landowners immediately adjacent to the proposed land use, or activity, and the community as a whole.
  - b. Be related to valid exercise of the police power and purposes which are affected by the proposed use or activity.
  - c. Be necessary to meet the intent and purpose of the zoning regulations; be related to the standards established in the Ordinance for the land use or activity under consideration and be necessary to ensure compliance with those standards.
  - d. The conditions imposed shall be recorded in the record of the approval action and shall remain unchanged except upon the mutual consent of the approving authority and the landowner. The approving authority shall maintain a record of changes granted in conditions.
6. Except as provided in this section, a decision of the Zoning Board of Appeals shall be final. The Zoning Board of Appeals may grant a rehearing under exceptional circumstances for any decision made by it. Exceptional circumstances shall mean any of the following.
  - a. The applicant who brought the matter before the Zoning Board of Appeals made misrepresentation concerning a material issue which was relied upon by the Zoning Board of Appeals in reaching its decision.
  - b. There has been a material change in circumstances regarding the Zoning Board of Appeals' findings of fact which occurred after the public hearing.
7. Reapplication: After eight (8) days following a decision by the Zoning Board of Appeals, no application for a variance, Ordinance interpretation, or appeal which has been denied, wholly or in part, by the Zoning Board of Appeals shall be resubmitted for a period of one (1) year from the date of the last denial, except on proof of changed conditions found upon inspection by the Board to be valid.

#### **Section 24.06 Procedures.**

1. Notice of Appeal: Appeal requests for Ordinance interpretation and requests for variances may be made to the Zoning Board of Appeals by any person aggrieved, or by an officer or department of the County, by filing a written Notice of Appeal with the County Zoning Administrator on forms established for that purpose and accompanied with such information as is necessary to decide such request. At a minimum, eight (8) copies of the information required to be submitted for a land use permit (either a plot plan or site plan) shall be submitted. Upon receipt of a Notice of Appeal, the office County Clerk shall promptly transmit the records concerning the appealed action, as well as any related information to the chairperson of the Zoning Board of Appeals. Any appeal from the ruling of the Zoning Administrator concerning the enforcement of the provisions of this Ordinance shall be filed within ten (10) days after the date of the Zoning Administrator's decision. For appeal requests related to Ordinance interpretation, an application shall be filed not later than 30 days after the order, decision or determination as to which the application or appeal is taken.

2. Hearing: Upon receipt of a Notice of Appeal, or of an application for Ordinance interpretation, or variance request, the chairperson of the Zoning Board of Appeals shall schedule a reasonable time and date for a public hearing.
3. Notice of Hearing: Before holding a hearing on an appeal of an administrative decision, a request for an interpretation of the zoning ordinance, or a request for a variance, notice of the hearing shall be delivered and published in accordance with Section 25.05 of this Ordinance.
4. Appearance: Upon the hearing, any party may appear in person or by agent or attorney. The Zoning Board of Appeals may recess such hearing from time to time, and, if the time and place of the continued hearing are announced at the time of adjournment, no further notice shall be required.
5. Stay: An appeal shall stay all proceedings in furtherance of the action appealed from unless the Zoning Administrator certifies to the Zoning Board of Appeals that by reason of facts stated a stay would cause imminent peril to life or property, in which case the proceedings shall not be stayed otherwise than by a restraining order, which may be granted by the Zoning Board of Appeals, or, on application, by court of record.
6. Decision: The Zoning Board of Appeals shall render its decision within sixty (60) days of filing of a Notice of Appeal, or application for Ordinance interpretation or variance, unless in the opinion of Zoning Board of Appeals, an extension of time is necessary to review information pertinent to making the decision. The concurring vote of a majority of the total membership of the Zoning Board of Appeals shall be necessary to reverse an order, requirement, decision, or determination of the administrative official or body, or to decide in favor of the applicant on any matter upon which they are required to pass under or to effect any variation in this Ordinance. Any decision of the Zoning Board of Appeals shall not become final until the expiration of eight (8) days from the date of entry of such order, unless the Board shall find the immediate effect of such order is necessary for the preservation of property or personal rights and shall so certify on the record.
7. Any variance granted under the provisions of this Ordinance shall become null and void unless the construction or other work authorized by a variance shall be substantially under way not later than one year after the granting of the variance and is being carried forward to completion or occupancy of land, premises or buildings. The applicant may be eligible for a one (1) year extension upon approval by the Zoning Administrator.
8. Performance Guarantee: In authorizing any variance, or in granting any temporary dwelling permits, the Zoning Board of Appeals may require that a cash deposit, certified check, irrevocable bank letter of credit, or surety bond acceptable to the County covering the estimated cost of conditions or improvements associated with a project for which zoning approval is sought, be deposited with the County Treasurer to insure faithful conformance with the conditions or completion of the improvements.

#### **Section 24.07 Review by Circuit Court.**

The decision of the Zoning Board of Appeals shall be final. A review of a Zoning Board of Appeals decision is by way of circuit court.



**ARTICLE XXV**  
**ADMINISTRATION, PENALTIES, AMENDMENT, AND OTHER REMEDIES**

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**Section 25.01 Administrative Official.**

1. The provisions of this Ordinance shall be administered and enforced by the Zoning Administrator or his deputies, or such other official or officials as may be designated by the County Board.
2. The Zoning Administrator or other designated person appointed by the County Board shall have the power to grant zoning compliance and occupancy permits, to make inspections of buildings or premises necessary to carry out his duties in the enforcement of this Ordinance. It shall be unlawful for the Zoning Administrator to approve any plans or issue any permits or certificates of occupancy for any excavation or construction until he has inspected such plans in detail and found them to conform to this Ordinance.
3. Under no circumstances is the Zoning Administrator permitted to make changes to this Ordinance nor to vary the terms of this Ordinance in carrying out his duties as Zoning Administrator.
4. The Zoning Administrator shall not refuse to issue a permit when conditions imposed by this Ordinance are met despite violations of deed restrictions, covenants or contracts which may exist.
5. If the Zoning Administrator shall find that any of the provisions of this Ordinance are being violated, he shall notify in writing, the person responsible for such violation, or the owner of record of the lot upon which such violation is taking place, indicating the nature of the violation. He shall order discontinuance of the illegal use of any lot or structures; or if illegal additions, alterations, or structural changes, discontinuance of any illegal work being done; or shall take any other action authorized by this Ordinance to ensure compliance with or to prevent violation of its provisions.

**Section 25.02 Permits Required.**

1. General Provisions. The following shall apply in the issuance of any permits:
  - a. Permits Not to be Issued. No building permit shall be issued for the erection, alteration or use of any building or structure or part thereof, or for the use of any land, which is not in accordance with all provisions of this Ordinance. Zoning permits shall not be issued until any and all additional state or local permits have been obtained. This shall include but not necessarily be limited to MDEQ, County Road Commission, County Health Department and state health department permits.
  - b. Permits for New Use of Land. No vacant land shall be developed or used or an existing use of land be changed to a use of a different class or type of use unless a certificate of occupancy is first obtained.
  - c. Permits for New Use of Building. No building or structure, or part thereof, shall be changed to or occupied by a use of a different class or type unless a certificate of occupancy and site plan approval is first obtained for the new or different use.
  - d. Permits Required. No building or structure, or part thereof, shall be hereafter erected, altered, moved or repaired unless a building permit shall have been first issued for such work. The terms "altered" and "repaired" shall include any changes in structural parts, stairway type of construction, type, class, or kind of occupancy, light or ventilation, means of egress and ingress, or other changes affecting or regulated by the County of Mason Building Code, or this Ordinance, except for minor repairs or changes not involving any of the aforesaid features.

- e. All zoning permits shall be valid for one (1) year. Building permits may be renewable on an annual basis.
- 2. Zoning Compliance. To determine satisfactory compliance with requirements of the Zoning Ordinance the application shall be accompanied by two (2) sets of plans and specifications conforming to the requirements of this Article as hereinafter set forth and the County Building Code. No permit shall be required for alterations or repairs for roofing repairs, siding or painting, or interior repairs, provided that such repairs shall not be construed to include the cutting away of any stone or masonry wall, the addition or removal of any beam or support, or the removal, change or closing of any staircase, means of ingress or egress, or of any chimney or window.
- 3. Certificates of Occupancy. It shall be unlawful to use, or occupy, or permit the use, or occupancy of any structure or premises, or parts thereof, hereafter created, erected, changed, converted, or wholly or partly altered or enlarged in its use or structure, until a certificate of occupancy and zoning compliance shall have been issued therefore by the Zoning Administrator.
  - a. No occupancy permit shall be granted until the water and sewer facilities are approved by the County or State.
  - b. No change of use shall be made in any building, or premise or land or part thereof now or hereafter erected, altered or used that is not consistent with the provisions of this Ordinance and no such change of use or occupancy shall be made without the issuance of a certificate of occupancy and compliance for such new use.
  - c. A certificate of occupancy and compliance shall be applied for coincident with the application for a building permit and shall be issued after the erection or alteration of such building shall have been completed in such a manner as to meet or exceed the Building Code. Where a certificate of use and occupancy is required not in conjunction with the issuance of a building permit, the same shall be issued on forms furnished by the Zoning Administrator. Every change of use shall require the issuance of a certificate of use.
  - d. A temporary certificate of occupancy may be issued by the Zoning Administrator for a period not exceeding six (6) months during alterations for partial occupancy of a structure pending completion of such alterations, provided that such temporary certificate may include such conditions and safeguards as will protect the safety and health of the occupants and the public.
  - e. The Zoning Administrator shall maintain a record of all certificates of zoning compliance.
  - f. Failure to obtain a certificate of occupancy shall be a violation of this Ordinance and punishable under the applicable provisions of this Ordinance.

### **Section 25.03 Violations.**

A violation of this ordinance is deemed to be a nuisance per se and a municipal civil infraction ~~misdemeanor~~, the penalty for which shall not exceed one-hundred (100) dollars per day ~~and/or up to ninety (90) days in jail~~. The rights and remedies provided herein are cumulative daily and in addition to any other remedies provided by law. The imposition of any fine shall not exempt the offender from compliance with the requirements of this Ordinance. Uses of land, dwellings, buildings, or structures including ~~tents~~, trailer coaches and mobile homes, used, erected, altered, razed, or converted in violation of any provision of the Ordinance are hereby declared to be a nuisance per se.

### **Section 25.04 Amendments. (10-25-06)**

- 1. Any person, body, or institution may initiate an amendment to this Ordinance, including the zoning districts map; provided, however that the Planning Commission and Board of County Commissioners

may determine, in their discretion, whether to consider an amendment in the text of the Zoning Ordinance.

2. In considering whether to approve a requested change in the zone districts map, the Planning Commission and the Board of County Commissioners shall consider the following criteria, among others:
  - a. Whether the proposed rezoning would be in accordance with the intents and purposes of the zoning ordinance.
  - b. Whether the proposed rezoning would be generally consistent with the goals, policies and future land use map of the County Comprehensive land use plan. Further, if conditions have changed since the Comprehensive plan was adopted, then whether the proposed amendment would be consistent with recent development trends in the vicinity or the area.
  - c. Whether conditions have changed since the time the current zoning of the land was adopted and, further, whether such change in conditions justify the proposed amendment.
  - d. Whether the proposed zoning would be generally consistent with the zoning classification of surrounding and nearby land.
  - e. Whether the uses available under the proposed zoning would be generally compatible with the physical, hydrological and other environmental features of the land.
  - f. Whether the potential land uses permitted by the terms of the proposed zoning district would be generally compatible with surrounding land uses and zoning in terms of land suitability, impacts on the environment, building density, nature of potential uses, traffic impacts, necessary infrastructure and potential influence on property values.
  - g. Whether the capacity of available public utilities, fire protection and other public services would be sufficient to accommodate the uses permitted in the requested district, or whether such services could be enhanced or augmented so as to provide an appropriate level of public services for the uses that would be permitted in the requested district.
  - h. Whether there would be sufficient capacity in the public street system adjoining and near the lands proposed to be rezoned, so as to safely and efficiently accommodate expected motor vehicle traffic to be generated by the land uses permitted in the requested zone district.
  - i. Whether some other zone district provided for in the Zoning Ordinance would be more suitable or appropriate than the zone district being requested.

#### **Section 25.05 Publication And Delivery Of Notice Of Public Hearing.**

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

1. 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 County.



2. For applications involving the rezoning of ten or fewer adjacent properties; for applications to the Zoning Board of Appeals involving a specific parcel; and for all planned unit development and special land use applications, a notice of public hearing shall be mailed by way of U.S. first class mail or personally delivered to the following persons, at least 15 days prior to the date of the public hearing:
  - a. The applicant;
  - b. All persons to whom real property is assessed within 300 feet of the property that is the subject to the application; and
  - c. The occupants of all structures within 300 feet of the property that is the subject of the application.
  - d. If the above-described 300-foot radius extends outside of the County's boundaries, then notice must be provided outside of the County boundaries, within the 300-foot radius, to all persons in the above-stated categories.
3. The notice of public hearing shall include the following information:
  - a. A description of the nature of the application or request.
  - b. An identification of the property that is the subject of the application or request. The notice shall include a listing of all existing street addresses within the property; provided, however, that street addresses do not need to be created and listed if no such addresses currently exist within the property; and provided further that street addresses do not need to be listed if eleven or more adjacent properties are being proposed for rezoning.
  - c. State when and where the application or request will be considered.
  - d. Identify when and where written comments will be received concerning the application or request.

#### **Section 25.06 Schedule of Fees, Charges and Escrow Expenses. (1-1-08)**

1. The County Board shall by resolution establish a schedule of fees, charges and expenses and a collection procedure for zoning compliance permits, appeals, Special Land Uses, variances, site plan reviews, rezoning applications and other matters pertaining to this Ordinance. The schedule of fees shall be available in the office of the Zoning Administrator and may be amended only by the County Board.
2. An appropriate fee established by the County Board shall accompany any application. Additionally, a separate escrow deposit may be collected from the applicant, as determined by the County Board, and used to reimburse another party retained by the County to provide expert consultation and advice including but not limited to legal, planning, transportation and engineering professionals regarding the application. The amount of the deposit shall be based on a reasonable estimate to provide such services. Any unused portions of this fee shall be returned to the applicant after the County has paid all costs for consultant services.

#### **Section 25.07 Stop Work Orders. (1-1-08)**

1. Upon notice from the Zoning Administrator that any use is being conducted or that any work on any building or structure is proceeding contrary to the provisions of this Ordinance, such work or use shall be immediately stopped. The stop work order shall be in writing and shall be given to the owner of the property involved, to owner's agent, or to the person doing the work and shall state the conditions, if any conditions, under which work or the use will be permitted to resume.

2. Any person who shall continue to work in or about the structure, land or building or use it after having been served with a stop work order, except work that the person is directed to perform to remove a violation, shall be in violation of this Ordinance.

**ARTICLE XXVI  
EFFECTIVE DATE**

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Public hearings having been held as required by the Michigan County Zoning Act, this Ordinance shall become effective eight (8) days after being published in a newspaper of general circulation within the County.

Public Hearings: January 13, 2003 and August 12, 2003

County Planning Commission recommendation for approval: August 13, 2003

County Board of Commissioners Adoption: July 14, 2004

Effective Date: October 1, 2004