

PORTAGE TOWNSHIP ZONING DRAFT

2014

**Portage Township,
Mackinac County, MI**

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ARTICLE 1 INTRODUCTORY PROVISIONS

An ordinance to establish zoning districts and regulations governing the development and use of land within Portage Township, Mackinac County, Michigan, in accordance with the provisions of the *Michigan Zoning Enabling Act (MZEA), Public Act 110 of 2006, as amended*, and consistent with the *Portage Township Master Plan*; to provide for the administration, enforcement, and penalties for violation; to provide for the assessment and collection of fees; to provide duties for the Zoning Board of Appeals, Planning Commission, and other designated officials pursuant to the *MZEA* and the *Michigan Planning Enabling Act (MPEA), Public Act 33 of 2008, as amended*; to provide for amendments to the Ordinance; and to repeal all inconsistent ordinances.

The Township of Portage, Mackinac County, Michigan, ordains:

SECTION 1.1 TITLE

This document shall be cited as the *Portage Township Zoning Ordinance*, and may be referred to within this document as “Ordinance”.

SECTION 1.2 LEGAL BASIS

This Ordinance is adopted pursuant to the authority and requirements of the *Michigan Zoning Enabling Act (MZEA), Public Act 110 of 2006, as amended*, and other applicable acts related to specific uses.

SECTION 1.3 HISTORY AND REPEAL OF PRIOR ORDINANCES

The previous *Portage Township Zoning Ordinance* was adopted and became effective on April 6, 1976, and was subsequently revised in 1981, 1994, 1995, and 2000. That ordinance is repealed by and replaced with this Ordinance, which was approved and adopted by the Portage Township Board on July 14, 2015, and is ordered to take effect on August 14, 2015 (seven days after publication).

SECTION 1.4 JURISDICTION AND APPLICABILITY

This Ordinance shall apply to all buildings, structures, lands, water, and uses over which Portage Township has jurisdiction under the constitution and laws of the State of Michigan and of the United States. After adoption of this Ordinance, no building, structure or land shall be used and no building or structure shall be erected, converted, altered, relocated, or enlarged within the jurisdictional boundaries of Portage Township which is not in conformity with the provisions of this Ordinance and any state or federal law or other regulation, and without having obtained the applicable permits. See Section 8.2 for a description of permits required by this Ordinance.

SECTION 1.5 RELATIONSHIP TO OTHER REGULATIONS

By the adoption of this Ordinance, the Township does not intend to legitimize activities prohibited by local ordinance, state, or federal law. References to other laws or regulations in the Ordinance are provided for the reader’s convenience; however, the lack of cross-reference does not exempt a land, building, structure, or use from other applicable regulations. All statutory citations are to statutes as amended, including repeals if a new statute is adopted with a similar scope and purpose. All references to state law in this Ordinance refer to the Michigan Compiled Laws (MCL), as amended.

In interpretation, application and enforcement, whenever this Ordinance imposes a greater restriction than required for another existing ordinance, law, rule, regulation, or permit, the provisions of this Ordinance shall control in addition to all nonconflicting requirements. This Ordinance is not intended to interfere with or annul any ordinance, rule, regulation, or permit previously adopted and not in conflict with any of the provisions of this Ordinance. This Ordinance is not intended to interfere with or annul any easements, covenants, deeds, or other agreements between parties that are not in conflict with any of the provisions of this Ordinance.

Meetings of the Township Board, Planning Commission, and Zoning Board of Appeals under this Ordinance are subject to the *Open Meetings Act, P.A. 267 of 1976, as amended*. Documents prepared for or retained for the administration of this Ordinance are subject to the *Freedom of Information Act, P.A. 442 of 1976, as amended*.

SECTION 1.6 REGULATIONS RUN WITH THE LAND

All zoning approvals granted under this Ordinance run with the land. The right to continue a land use or activity, or construct a building or structure which is either permitted by this Ordinance or established as a nonconformity, shall be vested with the property rather than the owner. No rights shall be terminated for reasons of transfer of ownership unless such a permit is no longer valid as determined by the Zoning Administrator. The right to continue a land use or activity shall transfer automatically upon the conveyance of the property unless terminated pursuant to other terms of this Ordinance.

SECTION 1.7 VESTED RIGHTS

Except as otherwise noted in this Ordinance, nothing in this Ordinance shall 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 all rights are hereby declared to be subject to such subsequent amendment, change, or modification as may be necessary for the preservation or protection of public health, safety, and welfare.

SECTION 1.8 SEVERABILITY

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

SECTION 1.9 PURPOSE

This Ordinance is based on the *Portage Township Master Plan* and is designed to promote the public health, safety, and general welfare; to meet the needs of citizens for food, fiber, energy, and other natural resources, places of residence, recreation, agriculture, forestry, industry, trade, service, and other uses of land; to encourage the use of lands and natural resources in accordance with their character and

adaptability; to conserve natural resources and energy; to provide for the orderly development of the Township to ensure that land uses shall be situated in appropriate locations and relationships; to reduce hazards to life and property; to establish the location, size, and the specific uses for which buildings and structures may hereafter be erected or altered; to limit the inappropriate overcrowding of land and congestion of population, transportation systems, and other public facilities; to facilitate adequate and efficient provision for transportation systems, sewage disposal, safe water supply, energy, education, recreation, and other public service and facility requirements; and to encourage the most advantageous use of land, resources, and properties.

SECTION 1.10 HOW TO USE THIS ORDINANCE

All lands within Portage Township are classified into specific zoning districts based on the character of each district, peculiar suitability of land 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. Anyone seeking to erect, alter, or relocate any building or structure, or commence any new use of land, building, or structure, should first consult the Zoning Administrator and review the Official Zoning Map and determine which regulations apply to their property. See Section 8.2 for a description of permits required by this Ordinance.

Before finalizing a development plan, an applicant should consult the *Portage Township Master Plan* and this Ordinance to determine consistency with adopted community goals and Ordinance provisions.

All proposals must meet the provisions of Article 3 with regulations applying to all structures; lots; parking and loading areas; landscaping, screening, and fencing; signs; essential services, communications, utility, and public infrastructure; access; and miscellaneous elements. Articles 4 and 5 contain the use and dimensional regulations applying to each zoning district. Overlay district regulations are found in Article 6. Supplemental conditional and special use provisions are contained in Article 7. See Section 8.2 for a description of permits required by this Ordinance.

SECTION 1.11 ORDINANCE INTERPRETATION

1.11.A In interpreting and applying the provisions of this Ordinance, the provisions shall be held to the minimum requirements for the promotion of the public health, safety, and general welfare.

1.11.B All provisions, terms, phrases, and expressions contained in this Ordinance shall be construed according to this Ordinance's stated purpose and intent and applicable state law.

1.11.C INTERPRETATION OF TEXT

The following rules apply to the text, tables, and illustrations of this Ordinance:

1.11.C.1 In case of any difference of meaning or implication between the text of this Ordinance and any heading, drawing, table, figure, caption, or illustration, the text shall control.

- 1.11.C.2** The specific shall control the general. The use of a general or similar term shall not be taken to be the same as the use of any other specific term.
- 1.11.C.3** The word “shall” is always mandatory and not discretionary. The word “may” is permissive.
- 1.11.C.4** Words used in the present tense shall include the future; words used in the singular number shall include the plural, and the plural the singular, unless the context clearly indicates the contrary.
- 1.11.C.5** The word “building” or “structure” includes any part thereof.
- 1.11.C.6** The word “dwelling” includes “residence”.
- 1.11.C.7** The word “lot” includes “plot”, “tract”, or “parcel”.
- 1.11.C.8** The phrase “used for” or “occupied” includes “intended for”, “maintained for”, or “occupied for”.
- 1.11.C.9** The word “person” includes an individual, corporation, Limited Liability Corporation, partnership, trust, firm, incorporated association, or any other similar entity.
- 1.11.C.10** Unless the context clearly indicates the contrary, where a regulation involves two or more items, conditions, provisions, or events connected by the conjunction “and”, “or”, 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, 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.
- 1.11.C.11** Words and phrases not otherwise defined in this Ordinance shall have the meaning customarily assigned to them.
- 1.11.C.12** The words “this Ordinance” means the text of this Ordinance as well as all maps, tables, graphics, and schedules as included or attached and as enacted or subsequently amended.

1.11.D INTERPRETATION OF BOUNDARIES

Where questions arise with respect to the boundary of any district or parcel, the following shall govern:

- 1.11.D.1** Boundaries indicated as approximately following the center lines of streets or alleys shall be construed to follow the center lines.
- 1.11.D.2** Where boundaries follow the shore line of a stream, lake, or other body of water, the boundaries shall follow such shorelines, and in the event of change in the shoreline, the boundaries shall be the actual shoreline; where boundaries follow the centerline of streams, rivers, or other bodies of water, such shall follow the centerlines thereof.

- 1.11.D.3** A boundary indicated as approximately following a recorded lot line or the line bounding a parcel (such as a section or quarter-section line) shall be construed as following the lot line.
- 1.11.D.4** A boundary indicated as following the municipal boundary line shall be construed as following the boundary line.
- 1.11.D.5** A boundary indicated as following a railroad line shall be construed to be midway between the main tracks or in the center of the right-of-way if the tracks have been removed.
- 1.11.D.6** Boundaries indicated as parallel to, or extensions of features indicated in subsections 1-5 above, shall be so construed.
- 1.11.D.7** Islands shall be interpreted to be within the same zoning district as the nearest adjacent shorelands.
- 1.11.D.8** Where physical features existing on the ground are at variance with those shown on the Official Zoning Map, the Zoning Board of Appeals shall interpret the district boundaries.
- 1.11.D.9** Should the above rules not fully explain a question of boundaries, the Zoning Board of Appeals shall have the authority to make an interpretation on appeal.
- 1.11.E** **INTERPRETATION OF THE ZONING MAP**
- 1.11.E.1** The boundaries of the respective zoning districts are defined and established as depicted on the official map entitled “Portage Township Zoning Map”, which is an integral part of this Ordinance, and which, with the accompanying explanatory notes, shall be published as part of and incorporated by reference to the *Portage Township Zoning Ordinance*.
- 1.11.E.2** The Official Zoning Map shall be identified by the signature of the Township Supervisor, attested by the Township Clerk, with the date of adoption or amendment. Amendments to the Official Zoning Map shall be made within thirty days of adoption by the Township Board. Each amendment shall be accompanied by a reference number which shall refer to the official action of the Township Board.
- 1.11.E.3** One copy of the Official Zoning Map shall be maintained and kept up-to-date in the office of the Zoning Administrator along with a chronological file of official actions taken.
- 1.11.E.4** Any unauthorized change on or defacing of the Official Zoning Map by any person shall be considered a violation of this Ordinance.

ARTICLE 2 DEFINITIONS AND STANDARDS OF MEASUREMENT

SECTION 2.1 DEFINITIONS

Abutting (same as **Adjacent, Contiguous**) – Next to, touching, having property or district lines in common.

Accessory Building or Structure – A building or structure located on the same lot as the principal building (attached or detached) or principal use, but customarily incidental and subordinate to the principal building or use and devoted to an accessory use. Except as otherwise permitted by this Ordinance, an accessory building or accessory structure shall not be used for human habitation.

Accessory Dwelling Unit – A separate and complete dwelling unit established in conjunction with and clearly subordinate to a principal dwelling unit, either within the same structure as the principal dwelling unit (attached) or in an accessory structure on the same lot (detached).

Accessory Use – A use that is incidental and subordinate in area, extent, and purpose to the principal use; is customarily found in connection with the principal use; is located on the same lot as the principal use (except in the case of some accessory off-street parking spaces). For example, a retail business is not customarily considered incidental to a residential use. Customary residential accessory uses include storage of household goods, gardening, swimming pools, and other similar uses.

Acre – A land area of 43,560 square feet.

Addition (same as **Expansion, Enlargement, Extension**) – Any construction that increases the size of the building or structure in terms of building coverage, height, length, width, or floor area measured in square feet.

Adjacent (see **Abutting**)

Adult Foster Care Congregate Facility – as defined in the *Adult Care Facility Licensing Act, PA 218 of 1979, as amended, MCL 400.703*.

Adult Foster Care Facility – as defined in the *Adult Care Facility Licensing Act, PA 218 of 1979, as amended, MCL 400.703*.

Adult Foster Care Family Home – as defined in the *Adult Care Facility Licensing Act, PA 218 of 1979, as amended, MCL 400.703*.

Adult Foster Care Large Group Home – as defined in the *Adult Care Facility Licensing Act, PA 218 of 1979, as amended, MCL 400.703*.

Adult Foster Care Small Group Home – as defined in the *Adult Care Facility Licensing Act, PA 218 of 1979, as amended, MCL 400.703*.

Agriculture – The use of land for the production, harvesting, management, utilization, or storage of plants, animals, birds, or insects useful for food, feed, energy, fiber, fur, landscaping, soil building, or environmental mitigation. Including but not limited to biomass crops, forage and sod crops, grains and feed crops, field crops, berries, herbs, flowers, seeds, mushrooms, nursery stock, fruits, vegetables, Christmas trees, dairy and dairy products, poultry and poultry products, fish, fur-bearing animals, livestock including breeding and grazing of cattle, swine, captive deer, and similar animals. Includes but is not limited to activities such as aquaculture, horticulture, floriculture and other similar activities.

Agricultural Service Establishments – Businesses primarily engaged in supplying agricultural sales and services related to things like soil preparation, transport, processing, storage, farm labor, farm management, equipment, repair, and animal husbandry.

Agri-tourism – Agriculturally-based activities that bring visitors to a farm or ranch. Includes, but not limited to picking fruit and vegetables, riding horses, tasting agriculture products, learning about production of value-added products, learning about agricultural practices, buying local produce or hand-crafted gifts.

Alley – A passage or way open to public travel affording a secondary means of vehicular access to abutting lots and not intended for general traffic circulation.

Alteration – Any change in the location or use of a building or structure, and/or any addition, enlargement, expansion, or extension of a structure. Also any change or modification to the type of occupancy, number of dwelling units, or number of tenants in a structure.

Apiary (same as Beehive) – One or more structures occupied by bees, but does not include structures for processing or storing honey or equipment.

Appurtenance – A right or improvement belonging to or incidental to and passing with a principal property upon sale or transfer.

Aquaculture – The hatching, raising, and breeding of fish or other aquatic plants or animals.

Assisted Living Facilities – A residential development that provides room and board, assistance with daily activities, and health care for three (3) or more adult residents.

Awning – A roof-like cover projecting from the exterior wall of a building and composed of non-rigid materials except for the supporting framework which can sometimes be retracted, folded, or collapsed against the face of the supporting building.

Basement – That portion of a building between floor and ceiling which is partly below or partly above grade, but so located that the vertical distance from the average finished grade to the basement floor below is greater than the vertical distance from average finished grade to the basement ceiling above. A basement may be counted as a story. (See “*Measurement Standards*”)

Bed & Breakfast (same as Boarding House) – A private, owner-occupied dwelling operating as a business offering overnight accommodations and meals to transients for compensation. Lodging II.

Beehive – (see **Apiary**)

Berm – A mound of earth graded, shaped and improved with landscaping in such a fashion as to be used for visual and/or audible screening purposes to provide a transition between uses of differing intensity.

Buffer – A strip or area of land reserved for plant material, berms, walls, or fencing to serve as a visual and/or sound barrier between properties, often between abutting properties and properties in different zoning districts.

Buildable Area – The portion of a lot remaining after the minimum yard and setback, and maximum building coverage, requirements of this Ordinance have been met, leaving the area of the lot that buildings may occupy.

Building – A structure, temporary or permanent, portable or fixed, that is enclosed within exterior walls and a roof, to form a structure for the shelter of persons, animals, or property. Also includes vehicles, with or without wheels, situated on private property and used for the purpose of a building.

Building, Attached – A building which has at least part of a wall in common with another building, or which is connected to another building by a roof.

Building, Detached – A building that does not have a wall or roof in common with another structure.

Building Height – The vertical distance in feet from the average finished grade to the highest point of the roof surface, parapet wall, or other uppermost part of a building (see Height Exemptions in 3.1.A).

Business Service Establishments – businesses primarily engaged in rendering services to other businesses on a fee or contract basis.

Camp – A parcel of land with a dwelling that is rustic in nature and used for seasonal dwelling purposes.

Campground – A parcel or tract of land in which sites are offered for the use of the public or members of an organization either free of charge or for a fee, for the establishment of temporary living quarters for multiple recreational units, such as tents, camper trailers, travel trailers, recreational vehicles, motor homes, or other temporary sleeping quarters. A campground does not include a seasonal mobile home park, mobile home park, or manufactured housing community licensed under the *Mobile Home Commission Act, P.A. 96 of 1987, as amended*.

Canopy – A freestanding or attached permanent overhead shelter not enclosed by walls.

Child Care Center (same as Day Care Center) – Facility, other than a private residence, receiving one or more preschool or school age children for care for periods of less than 24 hours a day, and where the parents or guardians are not immediately available to the child. Child care center or day care center

includes a facility that provides care for not less than two consecutive weeks, regardless of the number of hours of care per day. The facility is generally described as a child care center, day care center, day nursery, nursery school, parent cooperative preschool, play group, before- or after-school program, or drop-in center. Includes the same provisions and exclusions as defined in *P.A. 116 of 1973, as amended, MCL 722.111*.

Child Caring Institution – as defined in *PA 116 of 1973, as amended, MCL 722.111*.

Children’s Therapeutic Group Home – as defined in *PA 116 of 1973, as amended, MCL 722.111*.

Church – A building wherein persons regularly assemble for religious worship, meetings and other activities, and which is maintained and controlled by a religious body with tax-exempt status organized to sustain public worship, together with all accessory buildings and uses customarily associated with such primary purpose.

Commercial – An activity conducted with the intent of realizing a profit.

Common Area – Land in a development held in common or single ownership and not reserved for the exclusive use or benefit of an individual tenant or owner.

Communication Tower – Any structure on which there are electronic facilities for receiving or transmitting communication signals.

Community Garden – A private or public facility for cultivation of fruits, flowers, vegetables, or ornamental plants by more than one person or family.

Community Residential Care Facilities – Facilities that provide part- or full-time shelter and specialized care for individuals in facilities or single family dwellings. These are all state-regulated facilities as defined in *PA 116 of 1973, as amended, MCL 722.111* or *PA 218 of 1979, as amended, MCL 400.703*. May include large child/day care centers with over six (6) children, group child care homes, child caring institutions, children’s therapeutic group homes, adult foster care facilities, and adult foster care congregate facilities.

Composting – Processing waste in a controlled environment to produce a stable product by microbiologically degrading organic matter under aerobic conditions.

Conditional Use – A use that, owing to some special characteristics attendant to its operation or installation is not essentially incompatible with uses permitted in a zoning district, but which possesses characteristics which require individual review in order to avoid incompatibility with the character of the surrounding area, public services and facilities, and adjacent uses of land. A conditional use is permitted by right in a particular district, provided that the use complies with the nondiscretionary standards stated in this Ordinance.

Contiguous (see Abutting)

Convalescent Home (see Nursing Home, same as Extended Care Facility)

Convenience Retail Establishments – A retail business offering products for off-premises consumption such as prepackaged food, beverages, media, household items, pharmaceuticals, etc.

Cutoff Angle – The angle of light distribution from a luminaire, measured between the vertical axis and the first line at which the bare source (lamp) is not visible.

Day Care Center (see **Child Care Center**)

Deck – A structure built as an aboveground platform either freestanding or attached to a building and supported by pillars or posts.

Deed Restriction – A private legal restriction on the use of a lot or parcel of land that is set forth in the deed and recorded with the County Register of Deeds. It is binding on subsequent owners and is sometimes also known as a restrictive covenant.

Division – The partitioning or splitting of a parcel of land for the purpose of sale, or lease of more than one year, or of building development that results in one or more parcels of less than 40 acres or the equivalent, and that satisfies the requirements of the *Land Division Act, P.A. 288 of 1967, as amended, MCL 560.108 and 560.109*. Does not include a property transfer between adjacent parcels. Any resulting parcel shall not be considered a building site unless it conforms to the requirements of *P.A. 288 of 1967, as amended*, and the lot requirements of this Ordinance.

Drive-through Establishment – A business that by design, physical facilities, or process encourages or permits customers to receive services or obtain goods without disembarking from their motor vehicles, whether this function is the primary or accessory use. Distinguished from a drive-in by the absence of parking while the service is being provided.

Dwelling, Accessory – A separate, complete housekeeping unit with a separate entrance, kitchen, sleeping area, and full bathroom facilities, which is an attached or detached extension to an existing single-family dwelling, and located on the same lot as the existing dwelling.

Dwelling, Multiple-Family – A building or portion thereof used and designed to contain separate living quarters for three (3) or more families on one or more levels, but which may have joint services or facilities, such as for laundry or storage. May also be called apartments, townhouses, and condominiums.

Dwelling, Single-Family – A building containing not more than one (1) dwelling unit intended or designed to be used as the home, residence or sleeping place of one-family and those under their care. May include mobile homes not in a mobile home park.

Dwelling, Two Family (Duplex) – A building containing not more than two (2) dwelling units, each designed and used exclusively as the home, residence or sleeping place of one-family. May also be called townhouses or duplexes.

Dwelling Unit – One (1) or more rooms connected together but structurally divided from all other rooms in the same structure, constituting a separate, independent housekeeping establishment and containing independent kitchen, bathroom and sleeping facilities.

Educational Institutions – A government or privately-owned and/or operated facility which is designed, constructed, or used for education or instruction. Accessory uses may include offices, meeting areas, food preparation or serving areas, and athletic facilities.

Enlargement (see Addition)

Erected – Includes built, constructed, altered, reconstructed, moved upon, or any physical operations on the premises required for construction. Excavation, fill, drainage, installation of utilities and the like, shall be considered a part of erection.

Essential Services – The erection, construction, alteration or maintenance by public utilities, governments or commissions of overhead, surface or underground gas, communication, telephone, television, electrical, steam, fuel or water distribution or transmission systems, collection, supply or disposal systems including mains, drains, sewers, pipes, conduits, tunnels, wires, cables, fire alarm boxes, police call boxes, traffic signals, hydrants, towers, poles, and other similar equipment and 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 communication towers or office buildings, substations, or structures for service equipment, or maintenance depots.

Expansion (see Addition)

Extension (see Addition)

Extractive Industries – those industries involving excavating and removing rock, stone, ore, soil, gravel, sand, minerals, and similar materials from the surface and/or subsurface.

Façade – That portion of any exterior elevation of a building extending vertically from grade to the top of a parapet wall or eaves and horizontally across the entire width of that building elevation. In a multi-tenant building, the **Unit Façade** is the portion of the façade that pertains to a particular storefront or tenant, and is measured from the centerline of the party walls defining the unit.

Family — A basic unit having at its nucleus one or two (2) persons who may be providing care for their children (whether related by blood, marriage, guardianship, duly-authorized custodial relationship, or adoption) and/or elderly parents plus not more than two other persons; or not more than four (4) unrelated persons living together as a single housekeeping unit.

Family Child Care Home – As defined in *PA 116 of 1973*, a private home in which one (1) but fewer than seven (7) minor children are received for care and supervision for compensation 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 child care home includes a home in which care is given to an unrelated minor child for more than four (4) weeks during a calendar year. A family child care home does not include an individual providing babysitting services for another individual. A family child care home is considered a residential use of property and a permitted use in all residential zones, not subject to a special or conditional use permit different from those required for other similar dwellings per the *Michigan Zoning Enabling Act PA 110 of 2006, as amended, MCL 125.3206*.

Farm – The land, plants, animals, buildings, structures, including ponds used for agricultural or aquacultural activities, machinery, equipment, and other appurtenances used in the commercial production of farm products as defined in the *Michigan Right to Farm Act, P.A. 93 of 1981, MCL 286.472, as amended*.

Farm Operation – As defined in the *Michigan Right to Farm Act, P.A. 93 of 1981, MCL 286.472, as amended*, the operation and management of a farm or a condition or activity that occurs at any time as necessary on a farm in connection with the commercial production, harvesting, and storage of farm products, and includes, but is not limited to:

1. Marketing produce at roadside stands or farm markets;
2. The generation of noise, odors, dust, fumes, and other associated conditions;
3. The operation of machinery and equipment necessary for a farm including, but not limited to, irrigation and drainage systems and pumps and on-farm grain dryers, and the movement of vehicles, machinery, equipment, and farm products and associated inputs necessary for farm operations on the roadway as authorized by the *Michigan vehicle code, PA 300 of 1949, as amended, MCL 257.1 to 257.923*;
4. Field preparation and ground and aerial seeding and spraying;
5. The application of chemical fertilizers or organic materials, conditioners, liming materials, or pesticides;
6. Use of alternative pest management techniques;
7. The fencing, feeding, watering, sheltering, transportation, treatment, use, handling and care of farm animals;
8. The management, storage, transport, utilization, and application of farm by-products, including manure or agricultural wastes;
9. The conversion from a farm operation activity to other farm operation activities;
10. The employment and use of labor.

Farm Product – As defined in the *Michigan Right to Farm Act, P.A. 93 of 1981, MCL 286.472, as amended*, those plants and animals useful to human beings produced by agriculture (see definition of **Agriculture**) or any other product which incorporates the use of food, feed, fiber, or fur, as determined by the Michigan Commission of Agriculture.

Farm Stand (same as Food Stand, Roadside Stand) – A building or structure used for the retail sales of farm product.

Farmer's Market – An occasional or periodic market held in an open area or in a structure where individual sellers offer for sale to the public such items as farm product, arts and crafts items, and food and beverages.

Fence – A structure of definite height and location to serve as an enclosure in carrying out the requirements of this Ordinance; a barrier designed to bound an area.

Fence Height – The average distance between the top element in the fence and the adjacent grade along any unbroken run of fence.

Fence, Living – A grouping of plants including, but not limited to hedges, shrubs, bushes, or trees, arranged and/or growing in such a manner as to enclose, secure, partially enclose or secure, provide privacy, or mark a boundary for all or any part of a lot.

Fence, Privacy – A solid fence erected or constructed to prevent views across the fence line.

Fill – Any material, including but not limited to soil, sand, concrete, rubble, and wood waste, that is deposited on the surface of the ground resulting in a change in natural grade.

Food and Drink Establishment – A business where food and drink are prepared, served, and consumed primarily on the premises.

Forest Management – The operation of timber tracts, tree farms, forest nurseries, or gathering of forest products, or the performing of forest services.

Foster Family Home – as defined in *PA 116 of 1973, as amended, MCL 722.111*.

Foster Family Group Home – as defined in *PA 116 of 1973, as amended, MCL 722.111*.

Fully Shielded – A luminaire that emits no direct uplight.

GAAMP (Generally Accepted Agricultural and Management Practices) – Those practices as defined by the Michigan Commission of Agriculture.

Grade – the elevation of the ground.

Grade, Average Finished – The elevation of the ground established for the purpose of regulating the height of the building. The arithmetic average of the ground elevations along the perimeter of the building.

Grade, Finished – The final elevation of the ground after development.

Grade, Natural or Established – The elevation of the ground in its natural state, prior to excavating or filling.

Ground Cover – Living plants designed to grow low to the ground (generally one foot or less), forming a continuous vegetative surface, and intended to stabilize soils and protect against erosion.

Group Child Care Home – As defined in *PA 116 of 1973, as amended, MCL 722.111*, 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 24 hours a day unattended by a parent or legal guardian, except children related to an adult member of the family by blood, marriage, or adoption. Group child care home includes a home in which care is given to an unrelated minor child for more than four (4) weeks during a calendar year. A group child care home is considered a residential use of property and a permitted use in all residential zones, not subject to a special or conditional use permit different from those required for other similar dwellings per the *Michigan Zoning Enabling Act PA 110 of 2006, as amended, MCL 125.3206*.

Group Housing – The residential occupancy of a structure by a group of people who do not meet the definition of a "family" but often share a common situation. The size of the group may be larger than the average size of a household. Tenancy is usually arranged on a monthly or longer basis. It may be a form of transient lodging. There is usually a common eating area for residents. May include monasteries, seminaries, convents, fraternities, sororities, and other similar uses. Does not include correctional facilities, Community Residential Care, or Institutions for Human Care and Habitation.

Hazardous Substance – Any substance that, because of its quantity, concentration, or physical or chemical characteristics, poses a significant present or potential hazard to the public health, safety, or welfare or to the environment. Includes "Hazardous substance" as defined in the *Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, Public Law 96-510, 94 Stat. 2767*, and "Hazardous waste" as defined in the *Natural Resources and Environmental Protection Act of 1994, as amended, MCL 324.11103*, and "Petroleum" as defined in the *Natural Resources and Environmental Protection Act of 1994, as amended, MCL 324.21303(d)(ii)*.

Height (see **Building Height, Sign Height, Fence Height**. See also "*Measurement Standards*")

Home Occupation – A business, profession, occupation, or trade conducted by an occupant of a dwelling unit as a secondary use subordinate and incidental to the use of the dwelling.

Hotel – A series of rental units, each containing at least a bedroom and bathroom, provided for compensation to transient guests for overnight lodging, and in which access to and from each room or unit is through an interior door.

Indoor Entertainment Establishments – Businesses providing indoor or fully-enclosed recreation, entertainment, or other hospitality which may also be associated with food service or accommodations.

Industrial Service Establishment – Businesses engaged in the repair or service of industrial, business, or consumer machinery, equipment, products, or by-products. May perform services on- or off-site, Categorized by light, medium, or heavy.

Institutions for Human Care and Habitation – A broad spectrum of facilities for the diagnosis, treatment, care, rehabilitation or training of persons who may be developmentally dependent, ill, physically disabled, mentally retarded, emotionally disturbed, drug or alcohol dependent. Also includes facilities designed to meet the temporary housing needs of special populations (e.g. homeless, abused spouses, etc.). Does not include correctional facilities. May include nursing or convalescent homes, assisted living facilities, orphanages, sanitariums, halfway houses, spouse abuse shelters, and homeless shelters.

Junk – Any worn out or discarded materials including but not necessarily limited to scrap metal, inoperable motor vehicles and parts, construction material, household wastes including garbage and discarded appliances, and yard debris, which is collected, stored or transported for salvage, destruction, or conversion to some use.

Junk Yard (same as Salvage Yard) – Any lot maintained or operated for the purchase, sale, storage, dismantling, demolition, repair or uses of junk.

Kennel – Any premises where domestic animals, such as dogs and cats, are confined, boarded, trained, treated, or groomed for compensation or bred or raised for sale purposes.

Lodging I – Includes facilities with ten (10) units or more offering transient lodging to the general public. Includes but is not limited to hotels, motels, residence inns, resorts, and other similar uses.

Lodging IV – Includes facilities with less than ten (10) units offering transient lodging to the general public. Includes but is not limited to tourist inns, small resorts, cabin camps, and other similar uses.

Lot (same as Parcel) – Land described in a recorded plat or by metes and bounds description, including a condominium unit in a condominium subdivision, having sufficient size to comply with the frontage, area, width-to-depth ratio, setbacks, yards, and building coverage requirements of this Ordinance, and having its principal frontage upon a public street or on an approved private road or approved access easement.

Lot Area – The area of a lot in a horizontal plane bounded by the lot lines.

Lot, Corner – A lot abutting two road rights-of-way at their intersection, or a lot abutting upon a curved street or streets involving a change of direction.

Lot Coverage – The percent of the gross area of a lot occupied by all of the ground floor of permanent buildings or structures which are under roof.

Lot, Flag – A lot whose access to the public street is by a narrow, private right-of-way that is either a part of the lot or an easement across another property.

Lot, Interior – Any lot which has only one lot line fronting on a street.

Lot, Illegal Non-Conforming – A non-conforming lot that did not legally exist prior to the effective date of this Ordinance, and does not conform to current ordinance requirements for the district in which it is located.

Lot, Legal Non-Conforming – Any lot that legally existed prior to the effective date of this Ordinance, but which fails to meet all requirements of this Ordinance for lot size or width, or does not have the required frontage on a publicly maintained road.

Lot Lines – The lines bounding a lot as defined herein:

- **Front Lot Line** – In the case of an interior lot, that line separating the lot from the street, private road, or other access easement, and bearing the assigned street address for that lot. In the case of a through or corner lot, that line separating the lot from either street. In the case of a flag lot, the line parallel and nearest to the main roadway.
- **Rear Lot Line** – The lot line that is neither a front nor side lot line.
- **Side Lot Line** – The lines that intersect with the front lot line(s).

Lot Lines, Common – Lot lines shared by adjacent lots.

Lot Size – see *“Measurement Standards”*

Lot of Record – A lot which is part of a plat or a lot described by metes and bounds and recorded in the Office of the County Register of Deeds at the time of adoption of this Ordinance.

Lot, Through – An interior lot having frontage on two more or less parallel streets as distinguished from a corner lot.

Lot Width – see *“Measurement Standards”*

Manufactured Home – Factory-built, single-family dwelling units prefabricated in part or total which meet the *HUD Code 42 USC Sec 5401* (Federal Manufactured Home Construction and Safety Standards Act), and is transportable in one or more sections, is built on a permanent chassis, and is used as a place of human habitation; but which is not constructed with a permanent hitch or other device allowing transport of the unit other than for the purpose of delivery to a permanent site, and which does not have wheels or axles permanently attached to its body or frame.

Manufacturing Establishments – Businesses involved in the manufacturing, processing, fabrication, packaging, or assembly of goods to a finished or semi-finished state, generally for wholesale, transfer to other plants, or custom orders. Goods are generally not displayed or sold on site, but if so, they are a subordinate part of sales. Relatively few customers come to the manufacturing site.

Medical Service Establishments – Facilities providing health care services to patients and/or support to other health professionals or businesses.

Mezzanine – An intermediate floor in any story which does not occupy more than one-third (1/3) of the floor area of a story.

Mixed Use Development – Two or more different primary land use components integrated in a single structure.

Mobile Home – Per the *Mobile Home Commission Act P.A. 96 of 1987, as amended, MCL 125.2302*, a structure, transportable in one or more sections, which is built on a chassis and designed to be used as a dwelling with or without permanent foundation, when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained in the structure. Mobile home does not include a recreational vehicle.

Mobile Home Park (same as manufactured housing community) – As defined in the *Mobile Home Commission Act P.A. 96 of 1987, as amended, MCL 125.2302*, a parcel or tract of land under the control of a person upon which three (3) or more mobile homes are located on a continual, non-recreational basis and which is offered to the public for that purpose regardless of whether a charge is made therefore, together with any building, structure, enclosure, street, equipment, or facility used or intended for use incident to the occupancy of a mobile home.

Motel – A series of rental units, each containing at least a bedroom and bathroom, provided for compensation to transient guests for overnight lodging, and in which access to and from each room or unit is through an exterior door.

Motor Vehicle – Every vehicle which is self-propelled by means of an engine, including, but not limited to, automobiles, trucks, vans, buses, truck tractors, motorcycles, motorbikes, bulldozers, front end loaders and other types of construction equipment, logging skidders, snowmobiles, all-terrain vehicles (ATV's), personal watercraft, and boats.

Nuisance – Any thing, condition or conduct that endangers the safety, health, repose, or welfare of the public; offends public decency; interferes with, obstructs or renders dangerous any public area or navigable waterway; or in any way renders the public insecure in life or property is hereby declared to be a public nuisance.

Nursing Home (same as Convalescent Home or Extended Care Facility) – A building having a principal purpose of providing of sleeping, eating, and gathering rooms where infirm persons are housed, often for extended periods of time, and furnished with meals and full-time nursing care.

Office Establishments – Use in which activities are conducted in an office setting, and generally focus on business, government, non-profit, professional, and financial services. Accessory uses may include cafeterias and health facilities for employees.

Off-Premise – Outside the limits of the area encompassed by the lot of record on which the principal use is conducted.

On-Premise – Within the limits of the area encompassed by the lot of record on which the principal use is conducted.

Open Space – Any unoccupied, at-grade area open to the sky and not covered by structures or devoted to vehicular use on the same lot with a building, as well as any lot 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, occupants, and their guests of land adjoining or neighboring such open space.

Open Space Preservation – Encouragement of optional residential site design that maximizes the conservation of open space by providing for greater density of development while retaining a portion of land for recreation, open space, or preservation of sensitive features. Applicable under certain conditions as determined in Section 3.12.C of this Ordinance.

Outdoor Recreation and Entertainment Establishments – Businesses providing recreation and entertainment services in a primarily outdoor setting. Accessory uses might include such uses as related food and beverage service, management offices, seating areas, service areas, and maintenance facilities.

Outdoor Sales – The outdoor display and sales of goods or services in parking areas, sidewalks, and other locations outside of an enclosed building (does not apply to farmer’s markets, produce stands, or yard sales as defined in this Ordinance).

Outdoor Storage – Keeping property or equipment in an area outside of a building as an accessory use to a non-residential and non-agricultural use.

Parapet – The extension of the main walls of a building above the roof line.

Parcel (see Lot)

Park – Land that is owned or controlled for the principal purpose of providing recreation or open space for public use.

Performance Guarantee – Cash, completion bond, certified check, irrevocable bank letter of credit or other financial security acceptable to the municipality as assurance that required improvements or conditions associated with project approval are properly built and brought to completion or conformance.

Permanent Structure – Any building, structure, or utility/waste system designed, constructed, and intended for use for more than one (1) year.

Permeable (same as Pervious) – Surface maintained in its natural condition or covered by a material that permits infiltration or percolation of stormwater directly into the ground at the rate of absorption of vegetation-bearing soils.

Personal Service Establishment – Businesses primarily engaged in providing services involving the care of a person or his/her personal goods.

Plat – A map of a subdivision of land recorded with the County Register of Deeds pursuant to the Land Division Act, P.A. 288 of 1967, as amended, MCL 560.102, or a prior statute.

Premises – A lot together with the buildings and structures thereon.

Principal Building – A building in which is conducted the primary or predominant use of the lot on which it is located.

Principal Use – The primary or predominant use of any lot, building, or structure.

Public Facility – Land and structures used to provide public services, including, but not limited to transportation, water, wastewater, stormwater, fire, police, emergency, utility, and communication systems or other publically owned uses such as government offices, schools, libraries, museums, tourist information centers, marinas, and trails.

Public Space – Open space or improved land and facilities commonly open to view by the public or accessible to the public.

Public Utility – Any person, firm or corporation, municipal department, board or commission duly authorized to furnish under federal, state, or municipal regulation to the public gas, steam, electricity, waste, communication, transportation, or water services.

Recreational Unit – A tent or vehicular-type structure, primarily designed and used as temporary living quarters for recreational, camping, or travel purposes, which either has its own motive power or is mounted on or drawn by another vehicle which is self-powered. Includes travel trailer, camping trailer, motor home, truck camper, and other units used for the stated purpose.

Religious Institutions – Facilities that primarily provide meeting areas for religious activities. They may provide accessory housing on-site for the religious leader. Other associated uses may include group housing, schools, day care centers, homeless shelters, soup kitchens and other similar principal uses.

Repair Services – Businesses that offer repair for small mechanical equipment or consumer goods within an entirely enclosed facility. Does not include motor vehicle repair.

Research and Development Establishments – A facility for carrying on investigation in the natural, physical, or social sciences which may include engineering and product development.

Resort – A place of typically seasonal entertainment, recreation and/or lodging. Resort lodging may include hotels, motels, single or multiple-family residential dwelling units, cottages, campgrounds, bed and breakfasts, or some combination, as regulated by appropriate sections of this Ordinance.

Restaurant (see Food and Beverage Establishments)

Restaurant, Drive Thru (see Drive-Through Establishments)

Restrictive Covenant – A restriction on the use of land set forth in a formal binding agreement. Restrictive covenants run with the land and are binding on subsequent owners of the property.

Retail Establishments – Businesses whose primary activity is the purchase and resale, leasing, or renting of goods or merchandise to the public for personal, household, or business use of consumption, and rendering services incidental to the sale of such goods.

Retention – The permanent on-site maintenance of stormwater.

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, and is dedicated or deeded to the public for public use and under the control of a public agency.

Riparian Buffer – A vegetated buffer strip along a watercourse that filters stormwater and provides wildlife habitat.

Roadside Stand (see **Farm Stand**, same as **Food Stand**)

Runoff – Water that flows at a rate above the infiltration rate of the surface material which causes water to flow over the ground surface.

Salvage Yard (see **Junk Yard**)

Sawmill – A facility where logs or partially processed trees are sawn, split, shaved, stripped, chipped, or otherwise processed to produce wood products, not including the processing of timber for use on the same lot by the owner or resident of that lot.

Screen – A structure or vegetative barrier meeting the buffer requirements of this Ordinance that provides a visual or noise barrier between the area enclosed and the adjacent property.

Setback – The minimum distance by which a building or structure must be separated from a defined boundary, such as a road right-of-way, lot line, or adjacent structure.

Setback Line – A line parallel to and equidistant from the relevant lot line (front, back, or side) between which no buildings or structures may be erected per the requirements of this Ordinance.

Sexually Oriented Business – Business engaged in the provision of sexually oriented products and services to adults, often of an adult entertainment character. May include, but not limited to adult book or video store, adult theater, live performances, adult novelty business, and similar uses with a substantial or significant portion (35 percent or more) of content or activities featuring “*specified sexual activities*”, or involving “*specified anatomical areas*” for sexual stimulation. “*Specified sexual activities*” include acts of human masturbation, sexual intercourse, or sodomy; fondling or other erotic touching or viewing of human genitals, pubic regions, buttocks or female breasts; and human genitals in a state of sexual stimulation or arousal. “*Specified anatomical areas*” include less than completely and opaquely covered human genitals, pubic regions, buttocks, and female breasts below the top of the areola; and human male genitals in a discernibly turgid state, even if completely and opaquely covered.

Shielded – Lamps that utilize a metallic substance to focus or block light.

Shopping Center – Multiple separate commercial establishments with separate customer access which is planned, constructed, and managed as a unified with shared on-site parking.

Shoreline – The line ascertainable by a visible inspection to identify the highest line where the water/normal wave action and wetland/beach type soils and vegetation are distinct from the soils and vegetation of the shore of the waterway.

Sign Related

Abandoned Sign – *A sign which for a period of at least one (1) year no longer identifies or advertises a legal, ongoing business establishment, product, location, service, idea, or activity.*

Alteration – *A change in the size or shape of an existing sign. Copy or color change of an existing sign is not an alteration. Changing or replacing a sign face or panel is not an alteration.*

Changeable Copy Sign – *A sign or portion thereof on which the copy or symbols change either automatically through electrical or electronic means (for example, time and temperature units), or manually through placement of letters or symbols on a panel mounted in or on a track system.*

Commemorative Sign – *Any sign erected in remembrance of a person or event or which recognizes the historical status of a building. Examples include cornerstones, historical markers, memorial plaques or tablets, etc.*

Electronic Message Sign – *An electrically activated, changeable, permanent sign whose variable message and/or graphic presentation capability can be electronically programmed by computer from a remote location without having to physically or mechanically replace the sign face. These signs typically use an LED (Light Emitting Diode) light source.*

Freestanding Sign – *A sign which is permanently affixed in or upon the ground, principally supported by one or more foundations, columns, poles, or braces. May also be referenced as a Pole, Ground, or Monument Sign.*

Governmental Sign – *A sign erected and maintained pursuant to and in discharge of any governmental or utility functions, or as required by law, ordinance, or other governmental regulation. Examples include traffic, utility, safety, railroad crossing, and identification signs for public facilities.*

Interior Sign – *Any sign placed within a building, but not including **Window Signs** as defined by this Ordinance.*

Mural – *A picture on an exterior surface of a structure. A mural is a sign only if it is related by language or logo to the advertisement of any product or service or the identification of any business. Only the portion of the mural that is a sign is counted toward total permitted sign area.*

Sign – *Any device visible from a public place whose essential purpose and design is to convey either commercial or noncommercial messages by means of graphic presentation of alphabetic or pictorial*

symbols or representations. Noncommercial flags or any other flags displayed from flagpoles or staffs will not be considered to be signs.

Temporary Sign – *Any sign intended to display messages of a transitory or temporary nature, and which is not permanently embedded in the ground or affixed to a building or structure.*

Vehicle Sign – *Any sign permanently or temporarily attached to or placed on a vehicle or trailer.*

Wall Sign – *A sign affixed to an exterior wall of a building or structure. Also includes signs affixed to architectural projection.*

Social Institutions – A privately owned or operated facility which is designed, constructed, or used to provide service of a public, nonprofit, or charitable nature to the people of the community on an ongoing basis (not just special events). Social institutions may have offices, meeting areas, food preparation or serving areas, and athletic facilities as accessory uses.

Special Use – A use that is not essentially incompatible with the uses permitted by right or with conditions in a zoning district, but possesses characteristics which require discretionary review in order to assure conformance with other agency standards or licensing requirements, avoid incompatibility with the surrounding area, and provide protection against nuisances or negative traffic, visual, environmental, privacy, and safety impacts. A special use is permitted in a particular district only after review by the Planning Commission and issuance of a permit in accordance with the standards set forth in this Ordinance.

Steep Slope – Slopes of twenty-five (25) percent or more for a distance of fifty (50) feet or more.

State Licensed Residential Facility – A structure constructed for residential purposes that is licensed by the State of Michigan under the *Adult Foster Care Facility Licensing Act, 1979 PA 218, MCL 400.701 to 400.737, or 1973 PA 116, MCL 722.111 to 722.128*, and provides residential services for six (6) or fewer individuals under 24-hour supervision or care. Considered a residential use of property and a permitted use in all residential zones, not subject to a special or conditional use permit different from those required for other similar dwellings per the *Michigan Zoning Enabling Act PA 110 of 2006, as amended, MCL 125.3206*. Does not include licensed adult foster care facilities for care and treatment of persons released from or assigned to adult correctional institutions.

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 ceiling next above. A half story is the uppermost story situated within a sloping roof.

Structure – Anything constructed or erected, the use of which requires permanent fixation to the ground or attachment to something having permanent fixation to the ground; including but not limited to buildings, decks, communication equipment and towers, signs, and fences, but not including uncovered, unenclosed paved surfaces.

Structure Height – For all structures other than buildings or fences, the vertical distance measured from the finished grade to the highest point of the structure. For buildings, see **Building Height**. For fences, see **Fence Height**. For signs, see **Sign Height**. See also “*Measurement Standards*”.

Structure, Illegal Non-Conforming – A structure that did not legally exist prior to the effective date of this Ordinance, and does not conform with the current ordinance requirements for the district in which it is located.

Structure, Legal Non-Conforming – A structure that legally existed prior to the effective date of this Ordinance, but does not conform with the current ordinance requirements for the district in which it is located.

Subdivision – The partitioning or splitting of a parcel of land for the purpose of sale, or lease of more than one year, or of building development that results in one or more parcels of less than 40 acres or the equivalent, and that is not exempted from the platting requirements of the *Land Division Act, P.A. 288 of 1967, as amended, MCL 560.108 and 560.109*. Does not include a property transfer between adjacent parcels. Any resulting parcel shall not be considered a building site unless it conforms to the requirements of *P.A. 288 of 1967, as amended*, and the lot requirements of this Ordinance.

Tavern – An establishment serving alcoholic beverages in which the principal business is the sale of such beverages at retail for consumption on the premises and where food may be available for consumption on the premises. May also include entertainment.

Telecommunications – Any origination, creation, transmission, emission, storage-retrieval, or reception of signs, signals, writing, images, sounds, or intelligence of any nature, by wire, radio, television, optical, or other means.

Temporary Structure – A building or other structure designed, located, installed or intended for use for no more than one (1) year.

Tourist Lodging (see Lodging IV)

Tower – Any structure that is designed and constructed primarily for the purpose of supporting one or more telecommunication antennas, including self-supporting lattice towers, guyed towers, or monopole towers. The term includes the structure and any support thereto.

Tourist Service Establishment – Businesses generally serving the transient tourist population, such as offering rentals of recreation equipment, or sales of tourism products.

Travel Trailer (see Recreational Unit)

Unenclosed – without walls, fences, railings, or similar structures defining the perimeter.

Use – Any purpose, activity, occupation, or operation for which a building or other structure or tract of land may be planned, occupied, or maintained. In this Ordinance, uses may be permitted by right, with conditions, or by special use permit.

Use, Accessory (see **Accessory Use**)

Use, Conditional (see **Conditional Use**)

Use, Illegal Non-Conforming – A use of property or structure that was not legally permitted to exist prior to the effective date of this Ordinance, and is not allowed as a permitted use under current ordinance requirements for the district in which it is located.

Use, Legal Non-Conforming – A use of property or structure that was legally permitted to exist prior to the effective date of this Ordinance, but is not allowed as a permitted use under current ordinance requirements for the district in which it is located.

Use, Principal (see **Principal Use**)

Use, Special (see **Special Use**)

Utility and Public Service Installations – A building or structure within which a utility or transportation service deemed necessary for the public health, safety or general welfare (an essential service) is provided to the public by an entity under public franchise or ownership; including but not limited to facilities created for the generation, transmission and/or distribution of electricity, gas, steam, communications, television, and water; the collection and treatment of sewage and solid waste; and the provision of roads, rails, air or mass transportation. Accessory uses may include offices, truck and large equipment parking, fueling and maintenance.

Variance – A modification of the literal provisions of the Zoning Ordinance, granted by the Zoning Board of Appeals, when certain findings have been made as outlined in the *Michigan Zoning Enabling Act, P.A. 110 of 2006, as amended*. These findings seek to ensure that no variance is granted unless: (a) in the case of non-use variances, strict enforcement of the Zoning Ordinance would cause practical difficulty, as outlined in the aforementioned Act (b) in the case of use variances, the applicant demonstrates an unnecessary hardship exists as outlined in the aforementioned Act, (c) doing so would not be contrary to the public interest or the intent and purpose of the Zoning Ordinance (d) there are circumstances unique to the individual property on which the variance is granted, (e) the variance request is not due to actions of the applicant, (f) doing so will not cause a substantially adverse effect upon adjacent properties, or essentially alter the character of the surrounding area, or increase hazards, or increase traffic congestion.

Vehicle Sales and Service Establishment – Businesses offering sales and service of motorized land and water vehicles. Accessory uses may include gas dispensing, offices, showrooms, and vehicle storage. Does not include auto body repair and repair of heavy vehicles.

Warehousing and Wholesale Trade Establishments – Businesses with structures containing storage spaces for products for distribution; or primarily engaged in selling merchandise to retail, industrial, commercial, or institutional users or other wholesalers; or acting as agents or brokers and buying merchandise for, or selling merchandise to, such individuals or companies. Accessory uses may include offices, truck fleet parking, fueling and maintenance.

Waterbody – Any significant accumulation of water, including any creek, stream, canal, river, lake or bay, or any other source, natural or artificial, except a swimming pool or ornamental pool located on a single lot.

Wetland – Those areas that are inundated and saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions, including swamps, marshes, bogs, and similar areas.

WECS (Wind Energy Conversion System) – A machine that converts the kinetic energy in the wind into a useable form, commonly known as a “wind turbine”, “wind generator” or “windmill”; the WECS includes all parts of the system, including, but not limited to, the tower, pylon or other structure upon which any, all or some combination of components are mounted.

Yard – Required open space on the same site as a principal building, unoccupied and unobstructed from the ground upward except as otherwise provided in this Ordinance.

Yard, Front – A yard extending across the full width of the lot, the depth of which is the minimum permitted horizontal distance between the front lot line and the nearest line of the principal building. Some lots have two front yards (see **Lot Lines, Front**).

Yard, Rear – A yard extending across the full width of the lot, the depth of which is the minimum permitted horizontal distance between the rear lot line and the nearest line of the principal building. Some lots may have no rear yard (see **Lot Lines, Rear**).

Yard, Side – A yard extending from the front yard to the rear yard, the depth of which is the minimum permitted horizontal distance between the side lot line and the nearest line of the principal building. Some lots have two side yards (see **Lot Lines, Side**).

Zoning District – A mapped area to which a uniform set of regulations governing the use of buildings and lots applies.

Zoning Administrator – The official designated for the purposes of enforcing and administering this Ordinance, and for carrying out certain duties and responsibilities as defined in this Ordinance.

Zoning Board of Appeals – The body appointed to hear appeals by any aggrieved party by a decision or order of the Zoning Administrator, or where it is alleged that the literal enforcement of this Ordinance would involve practical difficulties or would cause unnecessary hardship to the property owner.

Zoning Compliance Permit – A document reviewed and approved by the Zoning Administrator according to procedures established in this Ordinance, as a condition precedent to the commencement of a use, or the erection, construction, reconstruction, restoration, alteration, conversion, or installation of a structure or building. Issuance of this document indicates that an application has been reviewed and determined to comply with the requirements of this Ordinance, or has been granted a variance therefrom.

SECTION 2.2 MEASUREMENT STANDARDS

2.2.A BUILDING HEIGHT

A building shall adhere to both the maximum story and maximum height regulations as specified in the District standards, except as otherwise provided in this Ordinance.

2.2.A.1 *HEIGHT IN FEET*

To determine the overall building height in feet, take the following steps:

- First find the average finished grade. If the grade is level, the average finished grade shall be the level of the ground adjacent to the perimeter foundations or building walls exposed above grade. If the ground is not entirely level, the average finished grade shall be determined by averaging all elevations of the ground within six (6) feet of the building. (See Height in Relation to Grade, Section 3.1.B)
- Second measure the vertical distance in feet from the average finished grade to the highest point of the roof surface, parapet wall, or other uppermost part (see *Height Exceptions, Section 3.1.A*)

2.2.A.2 *HEIGHT IN STORIES*

Overall building height in stories shall be measured as the total number of stories beginning with the first story having its finished floor surface above the average finished grade. A basement shall be considered a “story” for the purposes of measuring overall building height in stories if any of the following is true:

- More than fifty (50) percent of the total building perimeter is above finished grade so that the vertical distance from the average finished grade to the basement floor is less than the vertical distance from the average finished grade to the basement ceiling.
- The basement is a walk-out basement.

2.2.B STRUCTURE HEIGHT

2.2.B.1 *FENCE HEIGHT*

Fence height along any continuous run of fence shall be measured by determining the average distance between the top element in the fence and the adjacent grade.

2.2.B.2 HEIGHT OF OTHER STRUCTURES

For all structures other than buildings, fences, or signs (See *Section 2.1 Sign Height*), the height shall equal the vertical distance measured from the finished grade to the highest point of the structure. For height exceptions for structures, see Section 3.1A and 3.1B.

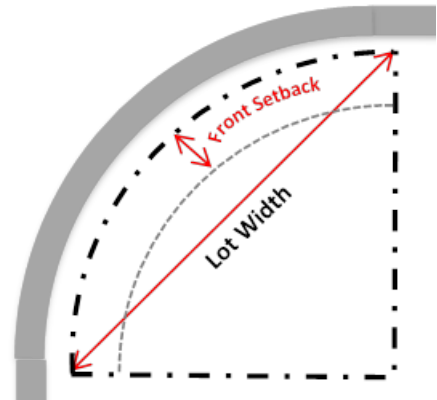
2.2.C LOT MEASUREMENTS

2.2.C.1 LOT SIZE

The total area, measured in square footage, within the boundaries of a property's lot lines (parcel area).

2.2.C.2 LOT WIDTH

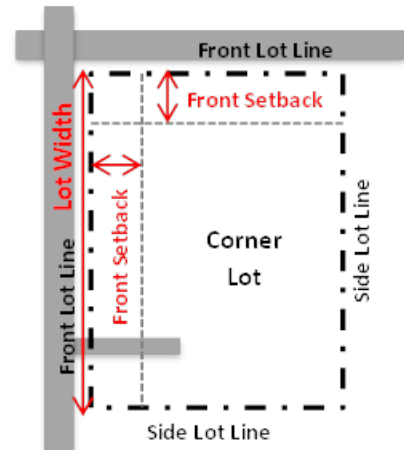
The horizontal distance between the side lot lines measured along the front lot line. In the case of a curved front lot line, the horizontal distance as measured on a tangent line running between the two side lot lines where they meet the front lot lines.



2.2.C.3

FRONT SETBACK

- a. The front setback is the minimum distance by which any building or structure must be separated from a street right-of-way or lot line. The front setback is measured from and perpendicular to the front lot line to the nearest foundation or building wall. The interior lot area behind the front setback line is part of the buildable area of the lot (with the exception of permitted projections per Section 3.3.C, however no projections can extend into the public or private right-of-way or dedicated easement).
- b. To help preserve the context of existing street frontage in more dense areas, the front setback may alternately be calculated as the average setback of the existing principal buildings within three-hundred (300) feet on each side of the lot on the same side of the street and within the same zoning district, provided the setbacks used in this calculation do not vary from each other by more than twenty (20) feet. (Do not include setback measurements for those principal structures that deviate from a chosen range of 20).



2.2.C.4

SIDE OR REAR SETBACK

The side (or rear) setback is the minimum distance by which any building or structure must be separated from a side (or rear) lot line. The side (or rear) setback is measured from and perpendicular to the side (or rear) lot line to the nearest foundation or building wall. The interior lot area behind the setback line is part of the buildable area of the lot (with the exception of permitted projections per Section 3.3.C, however no projections can extend into a public or private right-of-way or dedicated easement).

2.2.C.5

WATER SETBACK

The water setback is the minimum distance by which any building or structure must be separated from the nearest shoreline. The water setback is measured from and perpendicular to the shoreline. The interior lot area behind the water setback line is part of the buildable area of the lot (with the exception of permitted projections per Section 3.3.C Yard/Setback Exceptions).

2.2.C.6***LOT COVERAGE***

Lot coverage is the percent of the gross area of a lot occupied by all of the ground floor of permanent buildings or structures which are under roof. It shall be measured as the gross area of the actual footprint of the foundations of all buildings on the site, plus the gross area of the footprint of any enclosed ground floor or upper story projections beyond the actual footprint, divided by the total gross square foot area of the lot. The following areas on a lot that are open to the sky with a finished surface are excluded from calculations:

- a. Vegetation (landscaping, gardens) or paved surfaces (both pervious and impervious);
- b. Unenclosed and uncovered patios, decks, or gazebos;
- c. Unenclosed areas covered overhead by a pervious material such as lattice or a trellis.

ARTICLE 3 GENERAL PROVISIONS

The provisions of this Article generally apply to all zoning districts unless indicated otherwise. Any conflicts between this Article and the individual zoning district requirements resolve in favor of the latter.

SECTION 3.1 STRUCTURES

3.1.A HEIGHT EXEMPTIONS

The following structures and appurtenances shall be exempt from height regulations in all zoning districts in which they are permitted, provided no portion of the excepted structure may be used for human occupancy:

- 3.1.A.1** Those necessary appurtenances to mechanical or structural functions, such as chimneys and smokestacks, ventilators, cupolas, church steeples and spires, or other structures where the manufacturing or agricultural process requires a greater height, provided these appurtenances do not exceed seventy-five (75) feet in height or not more than fifteen (15) feet higher than the highest point of the structure, whichever is higher, and are set back a distance from the property line at least equal to the height of the structure above the ground. Public-owned water tanks and water towers are not subject to any height limitation.
- 3.1.A.2** Flagpoles and ham or amateur radio towers shall not exceed thirty-five (35) feet in height.

3.1.B HEIGHT IN RELATION TO GRADE (FILL)

The intent of these provisions is to prohibit the erection of buildings or structures taller than the established natural grade plus what the height restriction of this Ordinance would otherwise permit while accommodating proper sanitary facilities. It is also to avoid causing issues of runoff or erosion on adjacent properties.

- 3.1.B.1** The top elevation of any building or structure cannot be increased by adding fill to the surrounding grade thereby increasing the average finished grade.
- 3.1.B.2** Every lot shall be configured to retain all runoff from buildings and structures on the premises, and not to be directed onto adjacent properties or the public right-of-way.

3.1.C PERMITS FOR STRUCTURES

Zoning Compliance Permits are required for all structures or additions to structures (including decks and enclosed porches) with the following exceptions:

- 3.1.C.1** Decks and accessory structures less than two-hundred (200) square feet in area, and children's play houses and tree houses, do not require permits provided they meet the setback requirements of this Ordinance.

- 3.1.C.2** Temporary fencing and garden support structures or hoop houses erected seasonally that meet the setback requirements of this Ordinance do not require permits.

SECTION 3.2 **ACCESSORY STRUCTURES**

Whether attached or detached, accessory structures shall meet the same setbacks as principal structures except as provided in Section 3.3.C Yard/Setback Exceptions.

SECTION 3.3 **LOTS**

3.3.A **NUMBER OF DWELLINGS ON A LOT**

No lot on which a dwelling unit is permitted may have a second dwelling unit erected on the lot except as provided in this Ordinance for accessory dwellings units (Section 7.2.RR), duplexes, multiple family dwelling (Section 7.2.QQ), or Lodging IV (Section 7.2.R).

3.3.B **DIVISION OR COMBINATION OF LOTS**

- 3.3.B.1** No lot shall be divided except in conformance with the requirements of the *Land Division Act, Public Act 288 of 1967, as amended, MCL 560.101 et seq.*, this Ordinance, and any other applicable Township ordinances.

- 3.3.B.2** No lot shall be divided and combined with an abutting lot if the portion remaining following the division would not meet the minimum requirements for lots in the district, including the ability to meet the requirements of the District Health Department for water and waste facilities.

3.3.C **YARD/SETBACK EXCEPTIONS**

All buildings, building additions, building projections, and structures shall meet the setback/yard requirements of this Ordinance with the following exceptions:

- 3.3.C.1** For lots of record less than seventy-five (75) feet in width, the Zoning Administrator may approve reduced minimum setbacks to reflect established context within the immediate vicinity for lots of similar size and situation.
- 3.3.C.2** Unenclosed and uncovered decks, porches, boardwalks, and paved patios or terraces less than six (6) inches above grade shall be setback at least three (3) feet from any property line.
- 3.3.C.3** Accessory structures are allowed in front yards, and they may be located in rear or side yards:
- a. In the R-2 district, accessory structures shall be allowed in either the yard from which the property has road access, or the yard fronting the waterfront (for waterfront properties) provided they meet the water setback requirements for that district.

- b. Freestanding gazebos and other similar open, screen, or glass sided outdoor recreational shelters may be located in the front yard provided they meet the setback requirements of the principal structure for that district.
- c. School bus stop shelters shall be exempt from the provisions of this Section, however, such shelters shall not be located in the right-of-way.
- 3.3.C.4** Fences or screening walls may be located in any yard provided they meet the requirements of Section 3.7.
- 3.3.C.5** For existing structures, ramps to accommodate wheelchairs and/or related devices to assist the handicapped or infirm are permitted to encroach on the yard requirements of any district, provided an application for a Zoning Compliance Permit is filed with the Zoning Administrator who shall find as a condition of issuing the requested permit that the location selected minimizes the yard encroachment while still meeting the ramp needs of the applicant. For ramps constructed as part of a new building, ramps must meet all setback requirements. Ramps must meet the requirements imposed by all applicable federal, state and local regulations.
- 3.3.C.6** Self-supporting awnings may project into a required yard but shall not be located closer than three (3) feet to any property line. Awnings shall be at least eight (8) feet above grade at every point. No awning, except a fully retractable awning, shall be erected over a public right-of-way.
- 3.3.C.7** Uncovered stairs, landings, and fire escapes may project into any yard, but not to exceed six (6) feet, and not closer than three (3) feet to any lot line.
- 3.3.C.8** Architectural projections such as chimneys, flues, sills, eaves, belt courses, and ornaments may project into any yard, but such projection shall not exceed four (4) feet, and shall not be closer than three (3) feet to any lot line. Cantilevered floor space is not included in the exception and will be included in determining setbacks.
- 3.3.C.9** Essential services, utilities, electric power and communication transmission lines are exempt from permitting and setback requirements, provided they meet the requirements of Section 3.10. The permitting and setback requirements for solar and wind energy generation structures are in **Section 7.2.KK**.
- 3.3.C.10** Landscaping and vegetation are exempt from the yard and height requirements except for living fences per Section 3.7 of this Ordinance.
- 3.3.C.11** Requirements for accessory buildings for livestock, bees, or poultry are in Section 7.2.F.

SECTION 3.4 PERMANENT DWELLINGS

The following minimum requirements apply to all permanent dwelling units outside of mobile home parks:

- 3.4.A** All permanent dwellings, except seasonal camps in the F-1 district, shall be connected to appropriate waste and water supply systems approved by the District Health Department.

3.4.B All mobile homes shall remove the wheels, pulling mechanism, and tongue before placement on a permanent foundation meeting the requirement of the building code, and shall meet standards for mobile home construction contained in the U.S. Housing and Urban Development regulations and the appropriate building code adopted by the Township.

3.4.C Accessory structures may be used as a dwelling only when approved as an accessory housing unit.

SECTION 3.5 TEMPORARY DWELLINGS

3.5.A Zoning Compliance Permits are required for all temporary dwelling units except for tents and other portable recreational units used for seasonal dwelling purposes in permitted campgrounds or the F-1 district.

3.5.B Except for seasonal camps in the F-1 district, and tents and other portable recreational units in permitted campgrounds or the F-1 district, no structure that does not meet the minimum standards for a dwelling unit as defined in this Ordinance and the appropriate building code requirements for dwellings shall be used for dwelling purposes for more than twenty-one (21) days per year. If self-contained water and waste facilities are not included in the temporary dwelling unit, facilities in compliance with Health Department regulations must be available.

3.5.C Upon obtaining a Zoning Compliance Permit, a recreational unit located on the same lot as a principal dwelling unit that is under construction may be occupied as a temporary dwelling for a period not to exceed one (1) year, provided the following requirements are met:

3.5.C.1 Appropriate waste and water supply systems approved by the District Health Department are available on-site.

3.5.C.2 Any time extensions must be approved by the Zoning Administrator pending a finding of significant construction progress. Otherwise, the Zoning Compliance Permit for temporary occupancy of the recreational unit shall be revoked.

3.5.D Accessory structures may be occupied as a dwelling on a temporary basis during the reconstruction of the principal dwelling provided the structure meets the following requirements:

3.5.D.1 The structure meets the occupancy provisions of the appropriate building code;

3.5.D.2 The structure is connected to appropriate waste and water supply systems approved by the District Health Department, or such waste and water supply facilities are available on-site.

SECTION 3.6 LANDSCAPING & SCREENING

The purpose of this Section is to provide standards for landscaping and screening to protect the character of the surrounding area, enhance aesthetics, protect property values, discourage theft, stabilize soils,

control windblown dust and debris, prevent light from glaring onto adjoining properties, reduce stormwater runoff, increase groundwater infiltration, provide for snow accumulation, and reduce noise.

3.6.A GENERAL LANDSCAPING AND SCREENING STANDARDS

- 3.6.A.1** Live materials are required for all landscaped areas. No artificial trees, shrubs, turf, or plants may be used to fulfill the landscaping requirements of this Ordinance.
- 3.6.A.2** Required planting areas must be covered by live ground covers, low growing shrubs, or gravel, tree bark, bark mulch, or similar materials, but not concrete, asphalt, or similar materials.
- 3.6.A.3** The property owner shall be responsible for ensuring that any required landscaping or screening is maintained in a neat, clean, orderly, and healthful condition. This includes, but is not limited to, proper pruning, trimming, weeding, removal of litter, replacement of sickly plants, and regular watering.
- 3.6.A.4** Native, drought-resistant plants and shrubs are strongly encouraged for a more sustainable planting area.
- 3.6.A.5** Preservation of existing trees may count toward landscaping or screening requirements.
- 3.6.A.6** Zoning compliance permit is not required for general landscaping, but is required for screening (buffer).

3.6.B SCREENING TYPES

Buffer strips are generally located along the outer perimeter of a lot extending to the lot line. They shall not extend into right-of-way or easement. Buffer Strips are intended to separate dissimilar land uses and are generally located along the side and back outer perimeter of a lot extending to the lot line. Buffer strips along the front line as directed by the Zoning Administrator. Where required, buffers shall meet the following requirements:

3.6.B.1 *BUFFER TYPE A*

This buffer strip consists of the following:

- a. A planting area a minimum of forty (40) feet in width with a berm running the entire length of the buffer strip. The berm shall be at least five (5) feet tall with maximum slope one (1) vertical foot per three (3) horizontal feet; and
- b. A combination of twelve (12) deciduous and evergreen trees per one-hundred (100) lineal feet; and
- c. A combination of fourteen (14) deciduous and evergreen shrubs per one-hundred (100) lineal feet; and
- d. Turf, native seeding, or ground cover on the remaining surfaces of the buffer strip.

3.6.B.2 *BUFFER TYPE B*

This buffer strip consists of the following:

- a. A planting area a minimum of thirty (30) feet in width; and
- b. A combination of ten (10) deciduous and evergreen trees per one-hundred (100) lineal feet; and
- c. A combination of sixteen (16) deciduous and evergreen shrubs per one-hundred (100) lineal feet; and
- d. Turf, native seeding, or ground cover on the remaining surfaces of the buffer strip.

3.6.B.3 *BUFFER TYPE C*

This buffer strip consists of the following:

- a. A planting area a minimum of twenty (20) feet in width; and
- b. A combination of five (5) deciduous and evergreen trees per one-hundred (100) lineal feet; and
- c. A combination of nine (9) deciduous and evergreen shrubs per one-hundred (100) lineal feet; and
- d. Turf, native seeding, or ground cover on the remaining surfaces of the buffer strip.

3.6.B.4 *BUFFER TYPE D*

This buffer strip consists of the following:

- a. A planting area a minimum of ten (10) feet in width; and
- b. A combination of fourteen (14) deciduous and evergreen trees and shrubs per one-hundred (100) lineal feet that provide a continuous high opacity hedge or screen at least six (6) feet tall at maturity.
- c. Turf, native seeding, or ground cover on the remaining surfaces of the buffer strip.

3.6.C SCREENING OF PARKING LOTS

All non-residential parking areas containing five (5) or more spaces that abut residential, mixed-use or agricultural uses shall be screened by a solid fence, wall, or living fence of one-hundred (100) percent opacity at sufficient height to prevent headlight glare on adjacent properties. Such screens that are erected on property lines shall also meet the requirements of Section 3.7.

SECTION 3.7 FENCES

3.7.A LIVING FENCE

- 3.7.A.1** Shrubs and trees planted for the purpose of creating a living fence shall be planted so that the trunk or main stem of the plant is no closer than three feet (3') from any property line.
- 3.7.A.2** A living fence is not limited to the height requirements of other fences.
- 3.7.A.3** No permit is required for a living fence.

3.7.B NON-LIVING FENCE

3.7.B.1 *PERMITTING*

- a. No permit is required for fencing in the A-1 District or on public property.
- b. Fences in all other zoning districts require permits except that no permit is required for temporary seasonal (snow) fencing such as those erected to direct snowmobile traffic or control the drift of snow, provided however that fences shall be removed when the snow is gone in the spring.

3.7.B.2 *PLACEMENT*

- a. Fences shall not be located in a public right-of-way or easement. Fences shall not extend beyond shorelines of waterbodies.
- b. Fences may be erected along property lines (except living fences as noted above) or within yards, irrespective of the setback requirements of this Ordinance, provided they meet all applicable standards.

3.7.B.3 *FENCE HEIGHT*

- No fence, wall, or structural screen other than plant material shall exceed six (6) feet in height with the following exceptions:
- a. Fences in front yards shall not exceed four (4) feet in height.
 - b. Fences within fifty (50) feet of a shoreline shall not exceed four (4) feet in height unless the fence is fifty (50) percent opacity or less.
 - c. Solid rock walls in the front yard shall not exceed three (3) feet in height.
 - d. A wire security fence enclosing a municipal, public utility, public safety, or correctional facility shall not exceed ten (10) feet in height and may contain barbed wire or other sharp protrusions no more than eighteen (18) inches above the top of the ten (10) foot fence. The barbed wire shall slant inwards toward the property or stand straight up.

- e. An open mesh type of fence partially or fully enclosing any public property shall not exceed ten (10) feet in height.
- f. Fences enclosing private tennis or basketball courts, school or church playgrounds, or other similar recreational facilities shall not exceed ten (10) feet in height and must meet setbacks for principal structures in that zoning district.

3.7.B.4 FENCE MATERIALS

- a. Fences in the R-2, R-3, and MU districts shall not contain barbed wire or other sharp protrusions except as noted above.
- b. No fence shall be constructed or maintained which is charged or connected with an electrical current with the following exceptions:
 - (i) Temporary garden fencing during the growing season
 - (ii) Temporary fencing for the grazing of livestock

3.7.B.5 FENCE CONSTRUCTION

- a. The most decorative or ornamental side of fences or walls shall face the adjoining properties (face the outside of the fence).
- b. In the front yard, fences shall not exceed fifty (50) percent opacity.
- c. Fences in the rear and side yards may be solid, and may extend from the side lot line to the side of the principal structure, but shall not occupy the portion of the front yard in front of the principal structure unless in compliance with (b) above.
- d. Fences enclosing swimming pools must meet all applicable State or County regulations.

3.7.B.6 FENCE MAINTENANCE

- a. The Zoning Administrator may require the removal, reconstruction, or repair of any fence, living fence, wall or screen not in good condition. The removal, reconstruction, or repair can be a condition of any approval under this Ordinance.
- b. Any fence, living fence, wall or screen which does not conform to this Ordinance and which legally existed on the effective date of this Ordinance may be continued and maintained, provided there is no physical change other than necessary maintenance and repair; unless otherwise regulated by this Ordinance.

SECTION 3.8 PARKING AND LOADING

3.8.A INTENT

Each property owner in every Zoning District shall provide and maintain parking areas for off-street storage of motor vehicles adequate for the use of occupants, employees, and patrons of the property subject to the provisions of this Ordinance, except as otherwise provided by this Ordinance. Parking standards are intended to prevent excessive amounts of on-street parking, encourage appropriate development and redevelopment, enhance the compatibility of auto circulation systems with pedestrian and bicycle circulation, and provide for more beneficial stormwater management.

3.8.B PARKING PLAN REVIEW

Whenever vehicle parking spaces are required for a given use, plans and specifications for the construction or alteration of an off-street parking area shall be submitted to the Zoning Administrator for review and approval before a zoning and/or building permit is issued. Such plans and specifications shall at minimum include all the following:

- 3.8.B.1** Existing and proposed grades
- 3.8.B.2** Location of buildings, parking and snow storage areas, including size and design

3.8.C GENERAL PARKING STANDARDS

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

- 3.8.C.1** Required parking areas shall be used only for the parking of vehicles, and not for material storage, refuse storage stations/dumpsters, storage or display of vehicles and/or merchandise, or for vehicle or machinery repair or maintenance.
- 3.8.C.2** Each parking area shall be so designed and marked as to provide for orderly and safe movement and storage of vehicles and the access and safety of pedestrians and bicyclists.
- 3.8.C.3** Adequate ingress and egress to the parking area by means of clearly defined drives shall be provided. Except for parking areas accessory to single-family and two-family residential uses, drives for ingress and egress to the parking area shall be not less than twenty-four (24) feet wide for two-way access and at least twelve (12) feet wide for one-way access.
- 3.8.C.4** All off-street parking lots, access drives and aisles, and other vehicle maneuvering areas shall provide curbs or similar devices to prevent vehicles from overhanging on or into the public right-of-way, sidewalks, walkways, adjacent property, or landscape areas.
- 3.8.C.5** Parking areas shall be provided with adequate drainage. Surface drainage may not be directed or permitted to flow from or across the parking area onto the public right-of-way. The required parking area and/or surface shall be maintained and

replaced if necessary, as long as the building it serves is occupied or the use is continued.

3.8.D MISCELLANEOUS PARKING PROVISIONS

3.8.D.1 Off-street parking of not more than one (1) recreational unit per lot is permitted in all districts provided such units shall be parked a minimum of five (5) feet from the property line and shall not be used for business or agricultural purposes.

SECTION 3.9 SIGNS

3.9.A APPLICABILITY

This Section shall govern and control the erection, placement, alteration, enlarging, moving, operation, and maintenance of all signs by permitted uses within all districts. These regulations apply to signs that are visible from the public right-of-way, public facilities, trails open to the public, and navigable waterways. Nothing herein contained shall be deemed a waiver of the provisions of any other ordinance or regulation applicable to signs. Whenever regulations or restrictions imposed by this Ordinance are either more or less restrictive than those imposed by any governmental authority, the regulations, rules, or restrictions which are more restrictive, or which impose higher standards or requirements, shall govern. Regardless of any other provision of this Ordinance, no sign shall be erected or maintained in violation of any state or federal law or regulation. Any sign that can be displayed under the provisions of this Ordinance may contain a non-commercial message.

3.9.B INTENT

The sign regulations of this Section are intended to balance public and private interests to promote a safe, well-maintained, vibrant and attractive community while accommodating the need for signs to inform, direct, identify, advertise, advocate, promote, endorse, and otherwise communicate information. It is not the intent or purpose of this Section to regulate the message displayed on any sign or the content. These provisions are intended to:

- 3.9.B.1** Prevent blight and protect aesthetic qualities by preventing visual clutter and preserving scenic and natural beauty; and
- 3.9.B.2** Promote an ordered visual environment that supports a healthy economy and business climate by providing businesses with opportunities to inform, identify, and communicate effectively without excessive competition for visual attention; and
- 3.9.B.3** Enable the public to locate goods, services, and facilities without difficulty and confusion; and
- 3.9.B.4** Protect and enhance public and private investment in property by encouraging the design, scale, and placement of signs so that they are appropriately conspicuous, visible, and legible; and
- 3.9.B.5** Assure that the information displayed is clearly visible, legible, and readable; and

3.9.B.6 Protect public safety by controlling the proliferation of signs that are unduly distracting to motorists or that reduce the effectiveness of signs directing and warning the public; and prohibiting signs that are structurally unsafe or poorly maintained; and

3.9.B.7 Reinforce and support the desired community character in a manner that takes into consideration building scale and massing, building and sign setbacks, travel speed, and pedestrian presence so that signage contributes to a sense of place.

3.9.C SIGNS EXEMPT FROM PERMITTING

The following signs shall not require permits for erection, provided they do not exceed an area of six (6) square feet. See Section 2.1 Definitions for clarification.

3.9.C.1 Signs posted for one week and removed by the poster.

3.9.C.2 Governmental signs

3.9.C.3 Commemorative signs

3.9.C.4 Security and warning signs

3.9.C.5 Manual changeable copy signs

3.9.C.6 Signs for residential uses

Other visual displays that are exempt from permitting:

3.9.C.7 Interior signs, including signs affixed to interior windows.

3.9.C.8 Vehicle signs located on the rolling stock of common carriers or on licensed motor vehicles or trailers which are primarily and actively used for business purposes and/or personal transportation.

3.9.C.9 Public art including sculpture; original art murals; and painted, carved, and/or applied building accents and decorations (including those on awnings, canopies, or other appurtenances) that are not signs related by language or logo to the advertisement of any product or service or the identification of any business.

3.9.C.10 Flags

3.9.C.11 Holiday decorations

3.9.D PROHIBITED SIGNS

The following signs are prohibited:

3.9.D.1 Any sign which simulates or imitates any official traffic lights, signs, or signals, or signs that interfere with the effectiveness of any official traffic light, sign, or signal.

3.9.D.2 Any sign which obstructs the view of authorized traffic signs or signals for pedestrians and motorists; or which prevents the driver of a motor vehicle from having a clear and unobstructed view of approaching, intersecting, or merging traffic; or which extends into the public right-of-way without authorization of the road authority.

3.9.D.3 Signs which prevent unhindered ingress or egress from any door, window, fire escape, or that prevent unhindered access from one part of a roof to any other part.

3.9.E TEMPORARY SIGNS

Temporary signs do not require a permit provided they meet the standards of this subsection. They shall not be displayed longer than ninety (90) days (except as otherwise noted below). Signs that do not meet the standards of this subsection are subject to the standards for permanent signs. Signs that meet the standards of this subsection are not counted in the total area calculations for signage allowed on any particular premises or building.

3.9.F SIGNS IN THE A-1, F-1, R-1, R-2, AND R-2 DISTRICTS

No sign shall exceed an area of forty-eight (48) square feet.

3.9.G ILLUMINATED SIGNS

3.9.G.1 Externally illuminated signs shall utilize fully-shielded fixtures that minimize glare and light spill to non-sign areas.

3.9.G.2 The minimum necessary illumination or wattage to achieve readability from the public space shall be utilized. Bright colored lighting is prohibited on signs except as regulated as part of an electronic message sign.

3.9.H ABANDONED SIGNS

3.9.H.1 Abandoned Signs shall be removed within one (1) year of being determined to be abandoned.

3.9.H.2 An abandoned sign and/or sign structure may be removed by Portage Township at the expense of the property owner, and may be removed only at grade if such sign is not located in a public right-of-way.

3.9.I MAINTENANCE OF SIGNS

All signs and sign components (including supports, braces, anchors, electrical components, etc.) shall be kept in a good state of repair, in compliance with all applicable building and electrical codes, and in conformance with the requirements of this Ordinance. Any sign which is determined by the Zoning Administrator to be unsecured, in danger of falling, and/or a hazard to safety or public welfare shall be immediately abated by repair, rehabilitation, demolition, or removal. Such sign and/or sign structure may be removed by Portage Township at the expense of the property owner, and may be removed only at grade if such sign is not located in a public right-of-way.

3.9.J SIGN ADMINISTRATION AND ENFORCEMENT

It shall be unlawful for any person to erect, relocate, or structurally alter any sign or other advertising structure within Portage Township as defined in this Ordinance without first obtaining a Zoning Compliance Permit.

3.9.J.1 PERMITTING

- a. Application for a permit to erect or replace or alter a sign shall be made by the owner of the property, or their authorized agent, to the Township Zoning Administrator, by submitting the required forms, fees, exhibits and information. Fees for sign permits for all signs erected pursuant to this Ordinance shall be established by the Township Board.
- b. An application for a sign permit shall contain the following:
 - (i) The applicants name and address in full, and a complete description of their relationship to the property owner.
 - (ii) If the applicant is other than the property owner, the signature of the property owner concurring in submittal of said application is required.
 - (iii) The address and parcel identification number of the property.
 - (iv) A sketch of the property showing the location of all buildings and structures and their uses, and location and height of all existing and proposed signs.
 - (v) If applicable (wall, canopy, marquee signs, etc.), area of all building facades or building unit facades. If applicable (projecting sign), the linear feet of the building façade or building unit facade.
 - (vi) A complete description and scale drawings of all existing and proposed signs, including dimensions of sign elements and sign area in square feet.
- c. A sign permit shall become null and void if the work for which the permit was issued has not been completed with a period of six (6) months after the date of the permit. Said sign permit may be extended for a period of thirty (30) days upon request by the applicant and approval of the Zoning Administrator.

3.9.J.2 VARIANCES

A variance from Ordinance standards can only be granted by the Zoning Board of Appeals upon completion of a proper application and review process and according to standards applicable to other variances as defined in this Ordinance.

3.9.J.3 APPEALS

Appeals shall be heard by the Zoning Board of Appeals upon completion of a proper application and review process and according to applicable standards of this Ordinance.

3.9.J.4 ENFORCEMENT

Sign compliance status based on any false statement in the application or supporting documents is absolutely void and shall be revoked. Violations shall be enforced according to the provisions of this Ordinance.

SECTION 3.10 ESSENTIAL SERVICES, PUBLIC FACILITIES, AND UTILITIES

The erection, construction, alteration or maintenance of overhead or underground gas, electrical, steam or water distribution, transmission, collection, communication, or supply systems including mains, drains, sewers, pipes, conduits, wires, cables, fire alarm boxes, police call boxes, traffic signals, hydrants, water towers, poles, street lighting, electrical substations, gas regulator stations, utility pump and metering stations, and other similar equipment and accessories, but not including communication towers, which are reasonably necessary for the furnishing of adequate service for the public health, safety or general welfare by public utilities or governmental units, boards, or commissions is permitted in any zoning district subject to the following provisions:

3.10.A A fence or wall eight (8) feet high and adequate to obstruct passage of persons or materials shall enclose electrical substations and/or gas regulator stations.

3.10.B Public utility facilities in any zoning district are required to be constructed and maintained in a neat and orderly manner. Any building which is constructed shall be landscaped and shall conform with the general character of the architecture of the surrounding neighborhood.

3.10.C Any building intended for permanent and not seasonal or temporary human occupancy after the effective date of this Ordinance shall not be erected, altered, used, or moved upon any premises without a potable water supply and waste water disposal system that ensures a safe and effective means of collection, treatment, and disposal of human, commercial, and industrial wastes.

3.10.D All on-site sanitary disposal and potable water facilities shall be constructed and maintained in accordance with the requirements and standards of the District Health Department as well as those of other applicable local, county, state, or federal agencies.

3.10.E Whenever any street, alley, or other public way is vacated by official action, the zoning district adjoining each side of such public way shall automatically be extended to the center of the vacated area.

3.10.F Communication towers require a Special Land Use Permit according to the standards in Section 7.2.II.

SECTION 3.11 OUTDOOR LIGHTING

3.11.A PURPOSE

Portage Township finds that the naturally lit night sky is an important aspect of Township rural character, and is a valuable natural resource that contributes significantly to quality of life. These regulations are intended to provide for illumination that:

- 3.11.A.1** Does not exceed the minimum levels necessary for safety, utility, security, productivity, enjoyment, and commerce while minimizing adverse offsite impacts of lighting such as light trespass and glare.
- 3.11.A.2** Curtails light pollution in rural residential areas and lakeshore residential.
- 3.11.A.3** Reduces skyglow to preserve the rural character of the Township.
- 3.11.A.4** Helps protect the natural environment from the adverse effects of night lighting.
- 3.11.A.5** Protects vehicular and pedestrian traffic from dangerous glare or distraction, such as that caused by lighting that exceeds that of surrounding areas by great margins and compromises visibility and safety, particularly for ageing eyes.
- 3.11.A.6** Conserves energy and resources.

3.11.B APPLICABILITY

All outdoor lighting established before the adoption of this Ordinance shall, at minimum, be directed away from residential properties and public or private streets. Except as described below, all new outdoor lighting shall comply with these requirements. The following are not regulated by this Ordinance:

- 3.11.B.1** Lighting within the public right-of-way or easement for the principal purpose of illuminating streets or roads;
- 3.11.B.2** Lighting solely for signs (lighting for signs is regulated in Section 3.9.G);
- 3.11.B.3** Temporary lighting for theatrical or television events, performance areas, construction sites, celebrations, and holiday seasons;
- 3.11.B.4** Gas lighting; glass tubes filled with Neon, Argon, or Krypton; and small decorative fixtures utilizing bulbs of 800 lumens or less (equivalent to a 60 watt incandescent bulb).
- 3.11.B.5** Lighting that is only used under emergency conditions;
- 3.11.B.6** Low voltage landscape lighting;
- 3.11.B.7** Lighting required by federal or state laws or regulations.

3.11.C GENERAL REQUIREMENTS

- 3.11.C.1** All exterior illuminating devices shall be installed in conformance with the provisions of this Ordinance and all applicable building codes, although no zoning compliance permit is required.
- 3.11.C.2** Any light source visible from an adjoining property must be shielded.

SECTION 3.12 ENVIRONMENTAL PROTECTION

3.12.A STORMWATER MANAGEMENT

All water runoff shall be maintained on site; no water shall be directed to abutting property unless owned by the applicant.

3.12.B NUISANCE PROTECTION

Every use shall be so conducted and operated so that it is not detrimental to the health, safety, or welfare of persons or property, or obnoxious by reason of heat, glare, fumes, odors, dust, noise, smoke, water runoff, light, ground vibration or other nuisance beyond the lot on which the use is located.

3.12.C OPEN SPACE PRESERVATION

At the option of a landowner, land zoned for residential development may be developed with the same number of dwelling units on no more than fifty (50) percent of the land than could otherwise be developed per the provisions of this zoning ordinance if all of the following apply:

- 3.12.C.1** The land is zoned at a density equivalent to two or fewer dwelling units per acre; and
- 3.12.C.2** Fifty (50) percent of the land area shall remain perpetually in an undeveloped state by means of a conservation easement, plat dedication, restrictive covenant, or other legal means that runs with the land; and
- 3.12.C.3** The development does not depend upon the extension of a public sewer or public water supply system; and
- 3.12.C.4** This option has not previously been exercised with respect to that land.

ARTICLE 4 USE REGULATIONS AND SUMMARY USE TABLES

The purpose of this Article is to introduce the different types of land use review and approval categories and to give a summary of the permitted uses for all districts. A-1 is the Agricultural district, refer to Section 5.1; F-1 is the Forestry district, refer to Section 5.2; R-1 is Rural Residential, refer to Section 5.3; R-2 is Lakeshore Residential, refer to Section 5.4; R-3 is Residential, refer to 5.4; MU is Mixed Use, refer to Section 5.5.

SECTION 4.1 CATEGORIES OF PERMITTED USES

4.1.A PERMITTED BY RIGHT (P)

A use permitted in a district without the need for special administrative review and approval, upon satisfaction of the standards and requirements of this Ordinance discovered through a Tier 1 application.

4.1.B PERMITTED WITH CONDITIONS (C)

Conditional Uses are not necessarily incompatible with uses permitted by right in a zoning district, but, because of special characteristics, these uses require additional conditions to ensure compatibility before administrative approval. Before establishing, expanding, or amending a Conditional Use, with the exception of terminating a Conditional Use, the applicant shall obtain a Conditional Use Permit from the Zoning Administrator pursuant to permitting requirements using a Tier 2 application provided by the Zoning Administrator. Conditional Uses are permitted by right in a particular zoning district provided that the use complies with all the applicable standards of this Ordinance including those in Article 7, and other applicable ordinances and regulations. The Zoning Administrator may refer the application to the Planning Commission for comment before rendering a decision. If the application is denied, the Zoning Administrator shall identify in writing the reasons for that denial. In such a case, an aggrieved Applicant may appeal the decision to the Zoning Board of Appeals.

4.1.C PERMITTED BY SPECIAL USE PERMIT (S)

Special Uses are not essentially incompatible with uses permitted in a Zoning District, but possess characteristics which require Planning Commission review and discretion to avoid incompatibility with the character of the surrounding area, public services and facilities, and adjacent uses of land. Before establishing, expanding, or amending a Special Use, with the exception of terminating a Special Use, the applicant shall obtain a Special Use Permit from the Zoning Administrator pursuant to permitting requirements using a Tier 3 Site Plan Review application provided by the Zoning Administrator. Special Uses are permitted if approved in a particular zoning district provided that the use complies with all applicable standards of this Ordinance including those in Article 7 and other applicable ordinances and regulations. If the application is denied, the Planning Commission and Zoning Administrator shall identify in writing the reasons for that denial. In such a case, an aggrieved Applicant may appeal the decision to the Zoning Board of Appeals.

SECTION 4.2 GENERAL USE PROVISIONS

4.2.A Only uses permitted under the provisions of this Ordinance may be established on a parcel. All other uses may be permitted only if this Ordinance has been amended to permit them.

4.2.B A change in use group under the *Stille-DeRossett-Hale Single State Construction Code Act, Public Act 230 of 1972, as amended, being MCL 125.1501, et seq.*, such as from “storage” or “business” to “mercantile” or “assembly” is a change of use requiring review and approval under this Ordinance.

4.2.C The principal and accessory uses permitted by district are listed in Tables 4-1 and 4-2. Uses Permitted by Right are listed as "P". Uses listed as "C" are permitted by right (Conditional Use Permit) if the nondiscretionary conditions associated with that use, as set forth in Article 7, are met. Special Uses, listed as "S", are permitted by Special Use Permit if the required discretionary and nondiscretionary standards associated with that use, as set forth in Article 7, are met, as reviewed and approved by the Planning Commission. Standards for accessory uses are in Article 3.

4.2.D Where a proposed use of land 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 basically permitted, involves other features which were not contemplated or specified by this Ordinance, the Zoning Administrator shall request the Planning Commission to consider the proposed use, and if deemed appropriate, to then initiate the necessary amendment to this Ordinance per procedures detailed in Article 8 to provide for the requested use in appropriate districts and according to standards recommended by the Planning Commission and approved by the Township Board. Following adoption of the amendment by the Township Board, a permit application may be made to the Zoning Administrator to establish that use on a parcel in a district in which that use is permitted.

4.2.E Whenever any street, alley, or other public way within Portage Township shall be vacated by official action, such street, alley, or other public way, or portion thereof, shall automatically be classified in the same zoning district as the property to which it attaches.

4.2.F Every use must comply with all applicable regulations in this Ordinance. All relevant sections must be consulted to understand the scope of regulations that apply in a particular case.

SECTION 4.3 INTERPRETATION OF USE PROVISIONS

4.3.A Use classes arrange land uses and activities into use categories based on common functional, product, or physical characteristics. Characteristics include the type and amount of

activity, the type of customers or residents, how goods or services are sold or delivered, and site conditions. The categories provide a systematic basis for assigning present and future land uses into appropriate zoning districts.

4.3.B When all principal uses of a development fall within one use category, the entire development is assigned to that use category. A development that contains a coffee shop, delicatessen, and bakery, for example, would be classified in the Food and Drink Service Establishments category, because all of the development's principal uses are in that category. When the principal uses of a development fall within different use categories, each principal use is classified in the applicable category and each use is subject to all applicable regulations for that category. A mail order facility may simply be a call center or it may have warehouse or storage facilities on site. The Zoning Administrator shall classify the facility into the proper zoning district based on the characteristics of the use.

4.3.C Table 4-1 lists common examples of uses included in the respective use category. The names of these sample uses are generic—in interpreting use descriptions, the actual activity on the site will be matched to the use description. Uses categories are based on common meanings and not on what a specific use may call itself. For example, a use that calls itself "Wholesale Warehouse" but that sells mostly direct to consumers is included in the General Retail Establishments category rather than the Wholesale Trade Establishments category. This is because the actual activity on the site matches the description of the General Retail Establishments category.

4.3.D The Zoning Administrator shall keep a log of all use interpretations indicating the use, the options considered, and the selection made, along with the reasons for that decision.

SECTION 4.4 CRITERIA FOR INTERPRETATION

The following considerations are examples of the factors that may be evaluated in making similar use interpretations:

- 4.4.A** Characteristics of the proposed activity in relationship to similar use categories;
- 4.4.B** The relative amount of area and equipment devoted to the activity;
- 4.4.C** Relative amounts of sales from each activity;
- 4.4.D** The customer type for each activity (retail or wholesale);
- 4.4.E** The relative number of employees in each activity;
- 4.4.F** Hours of operation;
- 4.4.G** Building and site arrangement;
- 4.4.H** Vehicles used with the activity;
- 4.4.I** The relative number of vehicle trips generated by the use;
- 4.4.J** How the use advertises itself;
- 4.4.K** Any other relevant considerations.

SECTION 4.5

SUMMARY USE TABLES

- 4.5.A.1** **The purpose of the following tables are to provide guidelines for categorizing the various land uses and to summarize the uses allowed in each zoning district as detailed in Article 5.**
- 4.5.A.2** These tables divide the various types of land uses into broad categories (with headings such as Agriculture and Commercial and Commercial Uses) further divides into more general categories (such as Agriculture Service Establishments and Commercial Agriculture or Horticulture) and finally subdivides into a more specific use category, where each specific use is given an ID number.
- 4.5.A.3** The LUI Code is the “land use intensity number” ranging from I to VI (least intense to most intense) based on the presupposed impact and potential for nuisance factors on an adjacent land use. These impacts may be related to noise, vehicular traffic, glare, large bulk or scale, increased storm water runoff or large equipment.
- 4.5.A.4** The last six columns are the zoning districts: Agricultural, A-1, described in Section 5.1; Forestry F-1, described in Section 5.2; Rural Residential R-1 described in Section 5.3; Lakeshore Residential R-2, described in section 5.4; Residential R-3, described in Section 5.5; Mixed Use MU, as described in Section 5.6. Denoted in these six columns are the acceptable uses for each individual district.

4.5.B TABLE 4.1 USE MATRIX FOR PRINCIPAL USES, PAGE 1 OF 11

Table 4-1 Use Matrix for Principal Uses, page 1 of 11

Agricultural Uses									
Agricultural Service Establishments			LUI Code	Districts					
				A-1	F-1	R-1	R-2	R-3	MU
ID	Establishments primarily engaged in supplying agricultural services and sales such as soil preparation, crops, livestock care, horticulture, farm labor, and farm management.								
I	Livestock auction yards; livestock transport facilities; slaughterhouses; grain and seed elevators and sales; cold storage of agricultural products; farm implements sales or repair; commercial livestock experiment station; feed mills; feed lots.	VI	C	--	--	--	--	--	
II	Farm feed and small equipment sales; fertilizer, herbicide, and pesticide sales (limited outdoor storage).	V	P	--	P	--	--	P	
III	Animal Services: Completely indoor facilities. Animal hospitals or shelters, boarding kennels, veterinary services.	IV	P	--	P	--	--	P	
IV	Animal Services: with unenclosed, outdoor confinement. Animal hospitals or shelters, breeding/boarding kennels, veterinary services.	V	P	--	C	--	--	C	
Commercial Agriculture or Horticulture			LUI Code	Districts					
				A-1	F-1	R-1	R-2	R-3	MU
ID	The commercial production, harvesting and storage of farm products on a farm and the farm operations typically attendant thereto, as "farm" is defined in the Michigan Right to Farm Act, Public Act 93 of 1981; as amended.								
I	Commercial production of biomass crops; forages and sod crops; grains; feed crops; field crops; dairy and dairy products; poultry and poultry products; livestock including breeding and grazing of cattle, swine, captive deer, equine, and similar animals; berries; herbs; flowers; seeds; grasses; nursery stock; fruits; vegetables; Christmas trees, and other similar uses. Also commercial nurseries; greenhouses; apiaries; annelid farms; mushrooms; aquaculture; aquaponics; hatcheries; and similar agricultural enterprises and associated farm buildings. Includes on-site agri-tourism activities, wineries and vineyards, tasting rooms, and showrooms for sale of products produced on the premises.	IV	P	C	C	C	C	C	
II	Public Stables	IV	P	C	C	C	--	--	
III	Composting (Large scale)	V	C	C	C	--	--	--	
Accessory Homesteading Activities			LUI Code	Districts					
				A-1	F-1	R-1	R-2	R-3	MU
ID	Small scale subsistence food, energy, and fiber production or horticulture that is accessory to a residential use and meant to support the household in attaining some level of self-sufficiency.								
I	Accessory vegetable and flower gardens and orchards within any required yards.	--	P	P	P	P	P	P	
II	Accessory keeping of poultry, bees, aquaculture in tanks	--	P	P	P	P	P	C	
III	Accessory keeping of animals for homesteading purposes	--	P	P	P	C	C	S	
IV	Accessory private horse riding arena	II	P	P	P	C	S	S	
Local Food System Support			LUI Code	Districts					
				A-1	F-1	R-1	R-2	R-3	MU
ID	Uses that support the production or distribution of fruits, vegetables, flowers and other natural food, fiber and non-food materials within the community.								
I	Community or urban gardens as a principal use on a lot	I	P	P	P	P	P	P	
II	Farmer's Market, Food Stand	I	P	P	P	P	P	P	

P = Use permitted by Right, C = Use permitted by right with conditions, S = Special Use, EO=Economic

P = Use permitted by Right, C = Use permitted by right with conditions, S = Special Use, EO=Economic

Table 4-1 Use Matrix for Principal Uses, page 2 of 11

Commercial & Commercial Services Uses								
Business Service Establishments		LUI	Districts					
		Code	A-1	F-1	R-1	R-2	R-3	MU
Establishments primarily engaged in rendering services to business establishments on a fee or contract basis.								
Advertising and mailing; stenographic services; temporary personnel services; duplicating and copying services; building maintenance; employment services; commercial food catering management and consulting services; protective services; equipment rental and leasing; commercial research; photo finishing; data processing; telemarketing sales; vending machine service; and office supply services.		IV	P	P	P	C	S	P
Convenience Retail Establishments		LUI	Districts					
		Code	A-1	F-1	R-1	R-2	R-3	MU
A retail establishment offering for sale prepackaged food products, beverages, newspapers and magazines, household items, pharmaceuticals, and other items for off-premises consumption. These are usually neighborhood-serving uses not more than 3,500 square feet in size. A convenience retail establishment can share a building with another use, such as an automobile service station. Drive-through establishments are not convenience retail establishments.								
Party stores; drug stores; grocery stores; bakeries; delicatessens; magazine and newspaper stands.		V	P	P	P	P	S	P
Drive-Through Establishments		LUI	Districts					
		Code	A-1	F-1	R-1	R-2	R-3	MU
An establishment that by design, physical facilities, or service procedures encourages or permits customers to receive services or obtain goods without disembarking from their motor vehicles (whether this feature is the principal or accessory use). Distinguished from a drive-in establishment by the absence of parking while the service is being provided (as in a drive-in theater).								
Drive-through fast food restaurants, banks, drug stores, photo shops, grocery or party stores, and related businesses.		V	C	C	C	C	C	C
Food and Drink Service Establishments		LUI	Districts					
		Code	A-1	F-1	R-1	R-2	R-3	MU
An establishment where food and drink are prepared, served, and consumed primarily on the premises.								
Restaurants (eat-in or take-out, but not drive-through); bakeries; cafes; bars and taverns; nightclubs; cabarets; brewpubs (allowed only in conjunction with and as part of a restaurant); coffee shops; delicatessens; diners; soup kitchens; and related uses similar to and compatible with the above uses.		V	C	C	C	C	--	P
Forest Management		LUI	Districts					
		Code	A-1	F-1	R-1	R-2	R-3	MU
ID	The operation of timber tracts, tree farms, forest nurseries, the gathering of forest products, or the performing of forest services. Usually done in accordance with a forest management plan establishing best conservation and management practices.							
I	Tree planting, harvesting, sawing, chipping, temporary storage, and transport of forest products, as well as forest research facilities are permitted uses. The processing of wood products is an industrial activity (see Manufacturing Establishments).	II	P	P	P	C	--	C
II	Sawmills, whether temporary or permanent, for individual use.	VI	P	P	P	C	P	P
P = Use permitted by Right, C = Use permitted by right with conditions, S = Special Use, EO=Economic Opportunity Overlay.								

Table 4-1 Use Matrix for Principal Uses, page 3 of 11

Use Matrix-pg 3									
Commercial & Commercial Services Uses, continued									
General Retail Establishments			LUI Code	Districts					
				A-1	F-1	R-1	R-2	R-3	MU
ID	Establishments where the principal activity is the purchase and resale, leasing, or renting of goods or merchandise to the public for personal, household, or business use or consumption and rendering services incidental to the sale of such goods. There may be processing or manufacturing of products incidental or subordinate to the selling activities (such as a bakery or delicatessen at a grocery store). A common accessory use is repair of products sold on the premises. See also Tourist Service Establishments.								
I	Large Scale Retail Development		V	--	--	EO	--	--	EO
II	Small to medium scale retail establishments selling, leasing, or renting new or used consumer, home and business goods including, but not limited to, pharmaceuticals, food, electronic, office, building, personal care, and household goods.		IV	--	--	P	C	--	P
Indoor Entertainment Establishments			LUI Code	Districts					
				A-1	F-1	R-1	R-2	R-3	MU
Business establishments providing indoor or fully-enclosed recreation, entertainment, or other hospitality which may also be associated with food service or accommodations.									
	Athletic/fitness/exercise establishments; bowling alleys; ice or roller blade rinks; indoor soccer fields and racquet courts; amusement centers and game arcades; bingo parlors; pool or billiard halls; dance halls; theaters; membership clubs; saunas, hot tubs and similar establishments; indoor archery and shooting ranges; swimming pools/clubs.		V	--	--	C	EO	--	P
Outdoor Commercial Recreation & Entertainment Establishments			LUI Code	Districts					
				A-1	F-1	R-1	R-2	R-3	MU
ID	Outdoor recreation and entertainment uses provide recreation and/or entertainment-oriented activities largely in structures in an outdoor setting. There may be concessions, restaurants, retail shops selling items related to the recreation or entertainment uses, management offices, spectator seating and service areas, including locker rooms and rest rooms, caretaker's quarters and maintenance facilities in addition to structures for the principal uses.								
I	Golf driving ranges; miniature golf facilities; swimming clubs, tennis clubs; amphitheaters; and batting cages.		IV	--	EO	EO	EO	--	EO
II	Fairgrounds; zoos; riding stables; amusement and water parks; theme parks; golf courses and country clubs; ski slope and ski resorts; and skateboard parks.		V	--	EO	EO	--	--	EO
III	Outdoor archery, rifle, skeet, trap shooting ranges.		VI	--	EO	EO	--	--	--
IV	Animal racing; motorized vehicle race tracks.		VI	--	EO	--	--	--	--
Lodging/Accommodations			LUI Code	Districts					
				A-1	F-1	R-1	R-2	R-3	MU
ID	A facility offering transient lodging accommodations to the general public and possibly providing additional services, such as restaurants, meeting rooms, entertainment, and recreational facilities as accessory uses.								
I	Hotels, motels, residence inns, resorts, and other resident lodging facilities with ten units or more.		V	--	EO	EO	EO	--	P
II	Bed and Breakfast Establishments, Boarding House		III	C	C	C	C	C	P
III	Group camps, and campgrounds for tents or recreational vehicles.		IV	--	P	C	C	--	C
IV	Tourist lodging with less than ten units.		III	C	C	C	C	--	P
P = Use permitted by Right, C = Use permitted by right with conditions, S = Special Use, EO=Economic Opportunity Overlay.									
Use Matrix for									

Table 4-1

Use Matrix for Principal

Commercial & Commercial Services Uses, continued									
Medical Service Establishments			LUI	Districts					
			Code	A-1	F-1	R-1	R-2	R-3	MU
ID	Health care facilities providing medical, dental, surgical and preventive health services to patients as well as establishments providing support to health professionals and patients such as medical laboratories for research and testing, medical suppliers and service establishments.								
I	Small: Medical or dental clinics; doctor or dentist offices; medical or dental labs; blood collection facilities; x-ray and related scanning facilities; emergency medical care facilities; sales of medical supplies and prosthetics; drug stores; pharmacies; therapeutic massage by licensed masseuses, physical therapists, rehabilitation therapists, nurses, or physicians.	IV	--	--	C	C	--	P	
II	Large: Hospitals.	V	--	--	--	--	--	EO	
Office Establishments			LUI	Districts					
			Code	A-1	F-1	R-1	R-2	R-3	MU
Characterized by activities conducted in an office setting and generally focusing on business, government, professional, financial services. Accessory uses may include cafeterias and health facilities established primarily to service the needs of employees on the premises.									
Financial institutions: lenders, brokerage houses, banks; insurance offices; real estate offices; offices for attorneys, accountants, architects, engineers and similar professionals; government offices; public utility offices; telemarketing sales offices and other similar compatible uses.		IV	--	--	C	--	--	P	
Personal Service Establishments			LUI	Districts					
			Code	A-1	F-1	R-1	R-2	R-3	MU
ID	Establishments primarily engaged in providing services involving the care of a person, personal goods or apparel.								
I	Laundry pick-up stations; dry cleaning establishments performing the cleaning processes on site; self-service laundries; nails, beauty and barber shops and salons; shoeshine and shoe repair; tattoo parlors; tanning, steam baths, reducing salons and health clubs; fitness center; tailor and dressmaker shops; tuxedo rental; photographic studios; animal grooming; funeral services, and domestic services.	IV	--	--	C	EO	--	P	
II	Crematoria	V	--	--	S	--	--	S	
Repair Services			LUI	Districts					
			Code	A-1	F-1	R-1	R-2	R-3	MU
ID	Establishments that offer repair services for small mechanical equipment or consumer goods within an entirely enclosed facility. Includes customer drop-off and pick-up as well as off-site service calls. Does not include repair of motor vehicles.								
I	Light: Repair of televisions, bicycles, clocks, watches, cameras, shoes, guns, appliances and office equipment; clothing; locks, and upholstery.	IV	P	P	P	P	P	P	
II	Medium: Repair of small engines like lawn motors and small electric motors, snowmobiles, boat motors, ATV, trail groomers.	V	C	C	C	C	C	C	
P = Use permitted by Right, C = Use permitted by right with conditions, S = Special Use, EO=Economic Opportunity Overlay.									

Table 4-1 Use Matrix, page 5 of 11

Commercial & Commercial Services Uses, continued										
Research and Development Establishments				LUI	Districts					
				Code	A-1	F-1	R-1	R-2	R-3	MU
An establishment or other facility for carrying on investigation in the natural, physical, or social sciences which may include engineering and product development.										
Laboratories, research park, computer and related development and testing facility, software development, and other similar establishments.				V	--	EO	EO	EO	--	P
Sexually Oriented Businesses				LUI	Districts					
				Code	A-1	F-1	R-1	R-2	R-3	MU
Business or commercial enterprises engaging in the provision of sexually oriented products and services to adults. Often of an adult entertainment character.										
Adult bookstore, adult club, adult massage parlor, adult model studio, adult motel, adult theater or escort agency.				V	--	--	S	--	--	--
Tourist Service Establishments				LUI	Districts					
				Code	A-1	F-1	R-1	R-2	R-3	MU
ID	Business establishments generally serving transient populations.									
I	Rental, sales, and service of non-motorized recreational equipment such as snow ski, bicycle, kayak, canoe, and other rentals.			IV	--	P	P	P	--	P
II	Shops with primarily gifts, candy, baked goods, pottery, furniture, art, and other handcrafted items produced locally; off-premise tasting rooms or showrooms related to local commercial ag operations.			IV	P	P	P	P	--	P
Vehicle Sales and Service Establishments				LUI	Districts					
				Code	A-1	F-1	R-1	R-2	R-3	MU
ID	Retail sales and service of motorized land and water vehicles. Except for filling vehicles with gasoline or diesel, or for an oil change, generally the customer does not wait at the site while the service or repair is being performed. Accessory uses may include offices, showrooms, sales of parts, and vehicle storage. Does not include: auto body shop; frame reconstruction; repair and service of industrial vehicles and heavy trucks. See also Industrial Services Use Class.									
I	Sales or rental of new and used automobiles, light and medium trucks; recreational vehicles and trailers; motorcycles, snow mobiles, ATV's, personal motorized sporting goods. Service and repair of the above vehicles including: mechanical or parts repair or replacement; detailing; towing; and short term vehicle storage.			V	--	--	C	--	--	P
II	Gasoline dispensing and auto service station.			V	--	--	EO	--	--	P
P = Use permitted by Right, C = Use permitted by right with conditions, S = Special Use, EO=Economic Opportunity Overlay.										

Table 4-1 Use Matrix, page 6 of 11

Use Matrix-pg 6										
Dangerous Chemicals and Fuels: Manufacturing, Storage and/or Distribution				LUI Code	Districts					
					A-1	F-1	R-1	R-2	R-3	MU
Manufacturing or storage establishments which produce or store flammable, explosive or corrosive substances subject to state or federal regulation.										
Manufacture and/or storage of fireworks, petroleum products, propane, bottled gas, industrial acids or similar substances; refineries; and other bulk liquid storage.				VI	--	S	--	--	--	S
Industrial & Warehousing Uses										
Industrial Service Establishments				LUI Code	Districts					
					A-1	F-1	R-1	R-2	R-3	MU
ID	Industrial service firms are engaged in the repair or servicing of industrial, business or consumer machinery, equipment, products or by-products. Contractors and building maintenance services and similar uses perform services off-site. Few customers, especially the general public, come to the site. "Light": fully enclosed; no outdoor operations or storage of materials or vehicles. "Medium": same uses identified in "light", but with some outdoor operations or temporary storage of materials or vehicles. "Heavy": same uses as light or medium, but at a greater scale or volume of activity plus other uses with greater nuisance characteristics. The scale or volume of an otherwise light industrial activity may result in classification as a medium or heavy industrial activity.									
I	Light: Auto and small truck engine, radiator, transmission repair; tool repair; electric motor repair; repair of scientific or professional instruments; plumbing or electrical contractors; laundry, dry-cleaning and carpet cleaning plants; diaper services; linen supply services; photo-finishing laboratories.			V	S	S	S	--	--	P
II	Medium: Welding shops; machine shops; small vehicle, body, and frame repair; building, heating, general building contractors; exterminators; recycling operations (other than vehicles); wholesale lawn and garden services and landscape supply.			VI	S	S	S	--	--	S
III	Heavy: Sales, repair, storage, salvage or wrecking of heavy machinery, metal and building materials; towing and vehicle storage; auto and truck salvage and wrecking; junkyards; heavy truck servicing and repair; tire retreading or recapping; truck stops; asphalt and cement batching and redi-mix; contractor yards with large equipment stored on site; heavy equipment trade schools; meat and poultry processing and packing (wholesale excluding slaughtering); and auto recycler.			VI	S	S	S	--	--	--
Extractive Industries				LUI Code	Districts					
					A-1	F-1	R-1	R-2	R-3	MU
Excavating and removing rock, stone, ore, soil, gravel, sand, minerals, and similar materials from the surface and/or subsurface.										
Sand and gravel extraction processing and transport including manufacture of cement and cement products. Underground mining, processing and transport.				VI	S	S	S	S	S	S
P = Use permitted by Right, C = Use permitted by right with conditions, S = Special Use, EO=Economic Opportunity Overlay.										

Table 4-1 Use Matrix, page 7 of 11

Industrial & Warehousing Uses								
Manufacturing Establishments		LUI	Districts					
		Code	A-1	F-1	R-1	R-2	R-3	MU
ID	<p>Manufacturing and production firms are involved in the manufacturing, processing, fabrication, packaging, or assembly of goods. Natural, manmade, raw, secondary, or partially completed materials may be used. Products may be finished or semifinished and are generally made for the wholesale market, for transfer to other plants, or to order for firms or consumers. Goods are generally not displayed or sold on site, but if so, they are a subordinate part of sales. Relatively few customers come to the manufacturing site.</p>							
I	Light: Creameries; bottling works; bakery goods; candy; food products; ice making; taxidermists; printing, publishing and engraving shops; automotive products; vehicle and machinery assembly; fabricated metal products; forming and molding plastic products; cosmetics; pharmaceuticals; toiletries; hardware and cutlery; tool, die, gauge and machine shops; processing of machine parts; musical instruments; toys; novelties; metal or rubber stamps; molded rubber products; monument and art stone production; industrial laundry operations; furniture and related wood products processing facility; assembly of electrical appliances, electronic instruments and devices.	V	EO	EO	EO	--	--	EO
II	Heavy: Wood products manufacture involving extensive use of glues and other chemicals, such as sheet boards and chip boards; drop forging; heavy stamping; punch pressing; heat treating, plating, hammering; or other similar activities; automobile, truck, farm or other large equipment assembly; manufacture of metallurgical products; and heavy machinery fabrication; dry bulk blending plant or handling of liquid nitrogen fertilizer and/or anhydrous ammonia.	VI	--	S	--	--	--	--
Warehousing and Wholesale Trade Establishments		LUI	Districts					
		Code	A-1	F-1	R-1	R-2	R-3	MU
ID	<p>A structure containing separate, individual, and private storage spaces of varying sizes leased or rented on individual leases for varying periods of time to persons and businesses. Establishments or places of business primarily engaged in selling merchandise to retailers; to industrial, commercial, institutional, or professional business users; to other wholesalers; or acting as agents or brokers and buying merchandise for, or selling merchandise to, such individuals or companies. Accessory uses may include offices, truck fleet parking, fueling and maintenance.</p>							
I	Self-service storage facilities, also known as: mini-warehouses, and rental storage units.	IV	--	--	C	--	--	P
II	Warehousing, storage or transfer buildings, excluding the storage of flammable liquids. Truck, rail or air freight terminals; truck stops; bus barns; cold storage facilities; parcel services; auction house or flea market; lumber companies selling at wholesale; stockpiling of sand, gravel or other aggregate materials.	VI	--	S	S	--	--	S
<p>P = Use permitted by Right, C = Use permitted by right with conditions, S = Special Use, EO=Economic Opportunity Overlay.</p>								

Table 4-1 Use Matrix, page 8 of 11

Use Matrix-pg 8								
Institutional Uses								
Educational Institutions		LUI	Districts					
		Code	A-1	F-1	R-1	R-2	R-3	MU
An educational institution is any government or privately-owned and/or operated facility, building or part thereof which is designed, constructed, or used for education or instruction. Educational institutions may have offices, meeting areas, food preparation or serving areas, and athletic facilities as accessory uses.								
Governmentally or privately owned and operated elementary and secondary schools. Other institutions similar to and compatible with the above uses, including research and development establishments when associated with an educational institution.		IV	--	EO	EO	EO	EO	P
Religious Institutions		LUI	Districts					
		Code	A-1	F-1	R-1	R-2	R-3	MU
Religious institutions primarily provide meeting areas for religious activities. They may be associated with a convent (group housing) or provide caretaker housing or a parsonage on site (as an accessory use). Schools, day care centers, homeless shelters, soup kitchens and other uses sometimes associated with religious institutions are separate principal uses.								
Churches, synagogues, temples, mosques.		III	C	C	C	C	C	C
Social Institutions		LUI	Districts					
		Code	A-1	F-1	R-1	R-2	R-3	MU
ID	A social institution is a privately owned or operated facility which is designed, constructed, or used to provide service of a public, nonprofit, or charitable nature to the people of the community on an ongoing basis (not just special events). Social institutions may have offices, meeting areas, food preparation or serving areas, and athletic facilities as accessory uses.							
I	Including military schools; business, trade and vocational schools (not construction equipment or large vehicles); art, music and dance schools; drivers' training (not large vehicles); institutions for higher education.	III	--	EO	EO	--	--	P
II	Facilities to house charitable or philanthropic organizations such as United Way, Red Cross, Salvation Army, as well as centers for social activities such as neighborhood, community or senior centers; auditoriums and other places for public assembly.	IV	--	--	C	--	--	P
Public Uses								
Essential Services		LUI	Districts					
		Code	A-1	F-1	R-1	R-2	R-3	MU
The erection, construction, alteration or maintenance by public utilities or government departments or commissions of overhead, surface or underground gas, communication, telephone, television, electrical, steam, fuel or water distribution or transmission systems, collection, supply or disposal systems including mains, drains, sewers, pipes, conduits, tunnels, wires, cables, fire alarm boxes, police call boxes, traffic signals, hydrants, towers, poles, and other similar equipment and 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 communication towers or office buildings, substations, or structures for service equipment, or maintenance depots.								
Telephone, television, and electrical lines (except as noted below); sanitary sewer, storm sewer and water lines; railroad right-of-way and uses related thereto; gas and oil lines that link homes, businesses, schools and other buildings to utility and public services structures, but excluding "structures" such as telephone pedestals, cable television service boxes, and the like if they exceed 10 sq ft in base building footprint and are more than 4 ft. tall. Also includes public roads and road rights-of-way.		--	P	P	P	P	P	P
P = Use permitted by Right, C = Use permitted by right with conditions, S = Special Use, EO=Economic Opportunity Overlay.								

Table 4-1 Use Matrix, page 9 of 11

Public Buildings & Related Facilities		LUI	Districts					
		Code	A-1	F-1	R-1	R-2	R-3	MU
ID	Buildings housing public services of cities, villages, townships, counties, state and federal government, usually in offices, including publicly-owned "Utility and Public Service Installations" and "Educational and Social Institutions".							
I	Libraries, museums, township hall, county courthouse, police & fire station, public works, schools, publicly owned tourist info centers, public boat launches/marinas, and any publicly-owned "Utility and Public Service Installations". Trails, trail easements (motorized and nonmotorized).	III	S	S	S	S	S	S
II	Roadside parks and all other public parks.	I	P	P	P	P	P	P
III	Cemetery.	I	P	P	P	--	--	P
Utility and Public Service Installations		LUI	Districts					
		Code	A-1	F-1	R-1	R-2	R-3	MU
ID	A building or structure within which a utility or transportation service deemed necessary for the public health, safety or general welfare (an essential service) is provided to the public by an entity under public franchise or ownership; including but not limited to facilities created for the generation, transmission and/or distribution of electricity, gas, steam, communications, television, and water; the collection and treatment of sewage and solid waste; and the provision of roads, rails, air or mass transportation. Accessory uses may include offices, truck and large equipment parking, fueling and maintenance.							
I	Light: Electrical substations, gas regulator stations; radio, television, cellular, and microwave transmitter towers or other communication towers; satellite antennas larger than ten feet in diameter.	IV	S	S	S	S	S	S
II	Heavy: Water and sewage treatment facilities; water towers; large scale artificially constructed stormwater retention and detention facilities; telephone exchanges; recycling collection centers; solid waste; road maintenance and other public works garages.	VI	--	EO	EO	--	--	EO
III	Buried 345kv or larger electric transmission lines. (345kv or larger overhead electric transmission lines and towers constructed after the effective date of this Ordinance are prohibited.)	--	S	S	S	--	--	S
IV	Public airports.	V	EO	EO	EO	--	--	EO
V	Rail yards.	VI	EO	EO	EO	--	--	EO
VI	Park and Ride facility or commuter parking.	III	EO	EO	EO	--	--	EO
VII	WECS towers under 35 feet in height.	--	C	C	C	C	C	C
VIII	WECS towers between 35 and 80 feet in height.	--	S	S	S	--	--	S
IX	WECS towers over 80 feet in height.	--	S	S	S	--	--	--
P = Use permitted by Right, C = Use permitted by right with conditions, S = Special Use, EO=Economic								

Table 4-1 Use Matrix, page 10 of 11

Institutions for Human Care and Habitation	LUI	Districts					
	Code	A-1	F-1	R-1	R-2	R-3	MU
Institutions for human care include a broad spectrum of facilities for the diagnosis, treatment, care, rehabilitation or training of persons who may be developmentally dependent, ill, physically disabled, mentally retarded, emotionally disturbed, drug or alcohol dependent. Also includes facilities designed to meet the temporary housing needs of special populations (e.g. homeless, abused spouses, those released from correctional institutions, etc.). Does not include correctional facilities.							
Nursing or convalescent homes; homes for aged; assisted living facilities; orphanages; sanitariums; halfway houses; spouse abuse shelters; and homeless shelters.	III	--	S	S	S	--	S
Community Residential Care	LUI	Districts					
	Code	A-1	F-1	R-1	R-2	R-3	MU
Community residential care facilities provide part- or full-time shelter and specialized care for individuals in facilities or single family dwellings. As defined in PA 116 of 1973 or PA 218 of 1979.							
Large Child/Day Care Centers with over 6 children; Group Child Care Homes; Child Caring Institutions; Children's Therapeutic Group Homes; Adult Foster Care Facilities, and Adult Foster Care Congregate Facilities.	IV	C	C	C	C	C	C
Group Housing	LUI	Districts					
	Code	A-1	F-1	R-1	R-2	R-3	MU
Group housing is characterized by the residential occupancy of a structure by a group of people who do not meet the definition of a "family" but often share a common situation. The size of the group may be larger than the average size of a household. Tenancy is usually arranged on a monthly or longer basis. It may be a form of transient lodging. There is usually a common eating area for residents.							
Monasteries, seminaries and convents, fraternity or sorority. Other housing similar to and compatible with the above housing. Does not include prisons, other correctional facilities, community residential care facilities or institutions for human care and habitation.	III	--	S	S	S	--	S
Mobile Home Park and Manufactured Housing Community	LUI	Districts					
	Code	A-1	F-1	R-1	R-2	R-3	MU
See Ordinance definitions.							
Mobile home park and manufactured housing communities.	III	--	--	S	S	--	S
Residential Uses							
Multiple Family Dwellings	LUI	Districts					
	Code	A-1	F-1	R-1	R-2	R-3	MU
A building or portion thereof used and designed to contain separate living quarters for three or more families on one or more levels, but which may have joint services or facilities, such as for laundry or storage.							
Apartment building, townhouses, and row houses, garden apartments, and condominiums when considering the entire structure (not the individual dwelling units). Other housing similar to and compatible with the above housing.	III	--	--	S	S	--	C
P = Use permitted by Right, C = Use permitted by right with conditions, S = Special Use, EO=Economic Opportunity Overlay.							

Table 4-1 Use Matrix, page 11 of 11

Use Matrix-pg 11								
Residential Uses, continued								
Single Family Dwelling & Consistent Care Homes/Centers		LUI	Districts					
		Code	A-1	F-1	R-1	R-2	R-3	MU
ID	A building containing not more than one dwelling unit used, intended or designed to be used as the home, residence or sleeping place of one-family and those under their care. As defined in PA 116 of 1973 or PA 218 of 1979.							
I	Single family dwelling, site condominium, mobile or manufactured home on an individual lot. Other housing similar to and compatible with the above housing.	I	P	P	P	P	P	P
II	Temporary dwellings, tents/yurts, recreational vehicles (not in campgrounds).	I	P	P	P	P	P	P
III	Cabins and camps for a single family for seasonal occupancy.	I	P	P	P	P	P	P
IV	Child Care Center/Day Care Center with fewer than 7 children; Family Child Care Homes; Adult Foster Care Family Home; Adult Foster Care Small and Large Group Homes; Foster Family Home; Foster Family Group Home, State Licensed Residential Facility.	II	P	P	P	P	P	P
Two-Family Dwelling		LUI	Districts					
		Code	A-1	F-1	R-1	R-2	R-3	MU
A building containing not more than two dwelling units, each designed and used exclusively as the home, residence or sleeping place of one-family.								
	A duplex; a building with two dwellings constructed side-by-side, front-to-back, over and under, or some combination of the above. Can be new construction or modification of an existing structure provided each dwelling is separate. Also a lot with no more than two detached dwelling units, similar to and compatible with the above housing.	I	P	P	P	P	P	P
Special Mixed Uses								
Mixed-Use Development		LUI	Districts					
		Code	A-1	F-1	R-1	R-2	R-3	MU
ID	Two (2) or more different primary land use components integrated in a single structure.							
I	Mix of uses such as compatible commercial, institutional, and residential uses.	IV	--	--	C	C	--	P
II	Accessory office or showroom within residential subdivision or cluster devel.	--	--	--	P	P	P	P
III	Accessory residential home occupation - Type 1.	--	C	C	C	C	C	C
IV	Accessory residential home occupation - Type 2.	--	S	S	S	S	S	S
P = Use permitted by Right, C = Use permitted by right with conditions, S = Special Use, EO=Economic Opportunity Overlay.								

4.5.C TABLE 4.2 USE MATRIX FOR ACCESSORY AND TEMPORARY USES

Table 4-2 Accessory and Temporary Use Matrix

Accessory and Temporary Use Matrix								
ID	Accessory Residential Uses	LUI Code	Districts					
			A- 1	F- 1	R- 1	R- 2	R- 3	MU
I	Accessory Dwelling Units -- Attached	II	P	P	P	P	P	P
II	Accessory Dwelling Units -- Detached	II	C	--	C	C	--	C
Accessory Non-Residential Uses			Districts					
			A- 1	F- 1	R- 1	R- 2	R- 3	MU
I	Outdoor Display & Sales Areas (accessory)	III	P	--	C	C	--	C
II	Outdoor Food & Beverage Service (accessory)	IV	--	--	C	S	--	S
III	Outdoor Storage (accessory, unenclosed)	IV	C	C	C	C	--	S
IV	Transient Amusement Enterprises (temporary)	--	S	S	S	--	--	S

ARTICLE 5 SCHEDULE OF DISTRICT REGULATIONS – BASE DISTRICTS

As authorized by the Michigan Zoning Enabling Act, this section establishes zoning districts to regulate the use of land and structures for stated purposes, including the establishment of districts which apply only to land areas and activities meant to achieve specific land management objectives and avert or solve specific land use problems (overlay districts of Article 6). The zoning districts of the Portage Township Zoning Ordinance were designed to achieve the vision, goals, and objectives of the Portage Township Master Plan of 2006, as amended.

This Ordinance includes the following base zoning districts:

- A-1 Agriculture Resource Production
- F-1 Forestry Resource Production
- R-1 Rural Residential
- R-2 Lakeshore Residential
- R-3 Residential
- MU Mixed-Use

SECTION 5.1 AGRICULTURE RESOURCE PRODUCTION (A-1)

5.1.A INTENT

The intent of this district is to provide areas of the Township where agricultural production takes priority over other land uses, ensuring the necessary conditions for sustainable, healthful, and economically productive agricultural practices. Standards are meant to protect prime agricultural areas from encroachment of residential and commercial sprawl, and to limit the conflict that can occur between agriculture and other more urbanized uses. These areas may contain wetlands and other hydric soils that place limitations on development but can be harmoniously integrated with sensitive agricultural practices. This district is intended to be maintained in larger tracts more economically suitable for farming or conservation purposes. It is intended that regulations encourage maximum preservation of the viability of the land for contiguous productive use.

5.1.B PRINCIPAL USES PERMITTED BY RIGHT (P)

Agricultural Service II
Agricultural Service III – Animal Services Indoor
Agricultural Service IV – Animal Services Outdoor
Commercial Agriculture & Horticulture I
Commercial Agriculture & Horticulture II – Public Stables
Local Food System Support I – Community Garden
Local Food System Support II – Farmer’s Markets
Forest Management I
Repair Services I – Light
Tourist Service II
Essential Services
Public Buildings II & III – Parks and Cemeteries
Single-Family Dwellings I, II, III & IV
Two-Family Dwelling
Business Service Establishments
Convenience Retail Establishments

5.1.C ACCESSORY USES PERMITTED BY RIGHT (P)

Accessory Homesteading Activities I
Accessory Homesteading Activities II
Accessory Homesteading Activities III – Keeping of Animals
Accessory Homesteading Activities IV
Accessory Residential Uses I – Accessory Dwelling Units Attached
Accessory Non-Residential Uses I – Outdoor Display & Sales Areas
Forest Management II

Local Food Systems Support I – Community Garden
Convenience Retail Establishments
Accessory Homesteading Activities III

5.1.D PRINCIPAL USES PERMITTED WITH CONDITIONS (C)

Agricultural Service Establishments I
Commercial Agriculture & Horticulture III – Large Scale Composting
Lodging IV – Tourist Lodging less than 10 units
Food and Drink Service Establishments
Indoor Entertainment Establishments
Repair Services II – Medium
Community Residential Care Facilities
Drive-Through Establishments
General Retail II – Small to Medium
Religious Institutions

5.1.E ACCESSORY USES PERMITTED WITH CONDITIONS (C)

Lodging II – Bed & Breakfast
Utility & Public Service VII – WECS under 35 ft height
Residential Home Occupations (Type 1)
Accessory Residential Uses II – Accessory Dwelling Units Detached
Accessory Non-Residential Uses III – Outdoor Storage (accessory unenclosed)

5.1.F PRINCIPAL USES PERMITTED BY SPECIAL USE PERMIT (S)

Extractive Industries
Industrial Service Establishments I, II & III
Public Buildings I
Utility and Public Service I – Light
Utility and Public Service III – Buried 345kv or larger electric transmission lines
Utility & Public Service VIII & IX – WECS 35 ft and over

5.1.G ACCESSORY USES PERMITTED BY SPECIAL USE PERMIT (S)

Residential Home Occupations (Type 2)
Accessory Non-Residential Uses IV – Transient Amusement Enterprises
(temporary)
Accessory Homesteading Activities IV

5.1.H DEVELOPMENT REQUIREMENTS (A-1)

5.1.H.1 *LOT CONFIGURATION A-1*

- a. **MINIMUM LOT AREA**
Minimum lot area in the A-1 district is ten (10) acres.
- b. **MINIMUM LOT WIDTH**
Minimum lot width in the A-1 district is one-hundred fifty (150) feet.
- c. **MAXIMUM % LOT COVERAGE (STRUCTURES)**
Lots smaller than ten (10) acres (Nonconforming) in the A-1 district shall not exceed fifteen (15) percent maximum lot coverage.
Lots ten (10) acres or more in the A-1 district shall not exceed five (5) percent maximum lot coverage.

5.1.H.2 *MINIMUM SETBACK A-1*

- a. **FRONT SETBACK**
Minimum front setback in the A-1 district is sixty (60) feet from the property line fronting the nearest public road.
- b. **SIDE SETBACK**
Minimum side setback in the A-1 district is fifty (50) feet.
- c. **REAR SETBACK**
Minimum rear setback in the A-1 district is fifty (50) feet.
- d. **WATER SETBACK**
Minimum water setback in the A-1 district for a residential use is fifty (50) feet.
Minimum water setback in the A-1 district for a non-residential use is one-hundred (100) feet.

5.1.H.3 *PRINCIPAL STRUCTURE STANDARDS A-1*

- a. **MAXIMUM BUILDING HEIGHT (STORIES)**
Maximum building height for non-agricultural principal structures in the A-1 district is three (3) stories.
- b. **MAXIMUM BUILDING HEIGHT (FEET)**
Maximum building height for non-agricultural principal structures in the A-1 district is forty-two (42) feet.

5.1.H.4 *ACCESSORY STRUCTURE STANDARDS A-1*

a. **MAXIMUM BUILDING HEIGHT (NON-AG USES)**

Maximum building height for non-agricultural accessory structures in the A-1 district is one and a half (1.5) stories.

b. **MAXIMUM BUILDING HEIGHT (NON-AG USES)**

Maximum building height for non-agricultural accessory structures in the A-1 district is twenty-five (25) feet.

5.1.H.5 *MISCELLANEOUS STANDARDS A-1*

Outdoor storage of licensed and unlicensed motor vehicles shall be permitted.

SECTION 5.2

FORESTRY RESOURCE PRODUCTION (F-1)

5.2.A INTENT

This district is intended to promote the sustainable management and economic return from forest land, to promote conservation and low-impact recreation uses, and to provide contiguous habitat to sustain local biodiversity. Standards are meant to protect timberlands, recreation lands, and wetlands from development incursion. This area accommodates uses that are compatible with natural resources, such as low impact recreation, hunting camps, trails, and wildlife areas. The primary function of this land is for conservation or recreation purposes. Existing residential uses are accommodated at a very low density, but further subdivision of lands is not encouraged so as to maintain the integrity of the land for productive and conservation purposes. These lands are generally in close proximity to publicly owned conservation/recreation lands.

To retain the rural character of these areas, development is intended to be either on larger lots with greater setbacks from roadways, or within open space preservation patterns that preserve natural landscape features. Development should limit impact on water ways, and maintain rural character through natural feature setbacks and protection of wooded areas. It is intended that regulations encourage maximum preservation of the viability of the land for contiguous productive use or for habitat and low-impact recreation opportunities.

5.2.B PRINCIPAL USES PERMITTED BY RIGHT (P)

Local Food System Support I – Community Garden
Local Food System Support II – Farmer’s Markets
Forest Management I
Lodging III – Campgrounds
Repair Services I – Light
Tourist Service Establishments I & II
Essential Services
Public Buildings II & III – Parks and Cemeteries
Single-Family Dwellings I, II, III & IV
Two-Family Dwelling
Business Service Establishment
Convenience Service Establishment

5.2.C ACCESSORY USES PERMITTED BY RIGHT (P)

Accessory Homesteading Activities I, II, III, IV
Accessory Residential Uses I – Accessory Dwelling Units Attached
Forest Management II

5.2.D PRINCIPAL USES PERMITTED WITH CONDITIONS (C)

Commercial Agriculture & Horticulture I
Commercial Agriculture & Horticulture II – Public Stables

Commercial Agriculture & Horticulture III – Large Scale Composting
Lodging IV – Tourist Lodging less than 10 units
Repair Services II – Medium
Religious Institutions
Community Residential Care Facilities
Drive Through Establishment
Food and Drink Establishment

5.2.E ACCESSORY USES PERMITTED WITH CONDITIONS (C)

Lodging II – Bed & Breakfast
Utility & Public Service VII – WECS under 35 ft
Residential Home Occupations (Type 1)
Accessory Non-Residential Uses III – Outdoor Storage (accessory unenclosed)

5.2.F PRINCIPAL USES PERMITTED BY SPECIAL USE PERMIT (S)

Dangerous Chemicals & Fuels
Industrial Service Establishments I, II & III
Extractive Industries
Manufacturing II – Heavy
Warehousing & Wholesale II
Public Buildings I
Utility and Public Service I – Light
Utility and Public Service III – Buried 345kv or larger electric transmission lines
Utility and Public Service VIII & IX – WECS 35 ft and over
Institutions for Human Care & Habitation
Group Housing

5.2.G ACCESSORY USES PERMITTED BY SPECIAL USE PERMIT (S)

Residential Home Occupations (Type 2)
Accessory Non-Residential Uses IV – Transient Amusement Enterprises
(temporary)

5.2.H DEVELOPMENT REQUIREMENTS (F-1)

5.2.H.1 *LOT CONFIGURATION F-1*

- a. MINIMUM LOT AREA
Minimum lot area in the F-1 district is twenty (20) acres.
- b. MINIMUM LOT WIDTH
Minimum lot width in the F-1 district is three-hundred (300) feet.
- c. MAXIMUM % LOT COVERAGE (STRUCTURES)
Maximum lot coverage for structures in the F-1 District is five (5) percent.

5.2.H.2 *MINIMUM SETBACK F-1*

a. FRONT SETBACK

Minimum front setback in the F-1 district is sixty (60) feet from the property line fronting the nearest public road.

b. SIDE SETBACK

Minimum side setback in the F-1 district is fifty (50) feet.

c. REAR SETBACK

Minimum rear setback in the F-1 district is fifty (50) feet.

d. WATER SETBACK

Minimum water setback in the F-1 district for a residential use is fifty (50) feet.

Minimum water setback in the F-1 district for a non-residential use is one-hundred (100) feet.

5.2.H.3 *PRINCIPAL STRUCTURE STANDARDS F-1*

a. MAXIMUM BUILDING HEIGHT (STORIES)

Maximum building height for principal structures in the F-1 district is three (3) stories.

b. MAXIMUM BUILDING HEIGHT (FEET)

Maximum building height for principal structures in the F-1 district is forty-two (42) feet.

5.2.H.4 *ACCESSORY STRUCTURE STANDARDS F-1*

a. MAXIMUM BUILDING HEIGHT (STORIES)

Maximum building height for accessory structures in the F-1 district is one and a half (1.5) stories.

b. MAXIMUM BUILDING HEIGHT (FEET)

Maximum building height for accessory structures in the F-1 district is twenty-five (25) feet.

5.2.H.5 *MISCELLANEOUS STANDARDS F-1*

Overnight parking of one (1) commercial vehicle shall be permitted. Outdoor storage of no more than five (5) unlicensed motor vehicles shall be permitted, all other unlicensed motor vehicles must be completely enclosed in a structure.

SECTION 5.3 RURAL RESIDENTIAL (R-1)

5.3.A INTENT

This district accommodates rural residential properties with septic and private well infrastructure. Most of these properties have access from a primary road. Some areas may be planned for urban expansion, where the current use of the land is agricultural or forestland, however there is not a short term need for residential development. Standards are designed not to impede necessary urban expansion, but to prevent unwarranted and premature urban development from encroaching upon legitimate rural resources. Some economic opportunity will be carefully accommodated.

5.3.B PRINCIPAL USES PERMITTED BY RIGHT (P)

Agricultural Service II
Agricultural Service III – Animal Services Indoor
Business Service Establishments
Convenience Retail Establishments
Local Food System Support I – Community Garden
Local Food System Support II – Farmer’s Markets
Forest Management I
Repair Services I – Light
Tourist Service Establishments I & II
Essential Services
Public Buildings II & III – Parks and Cemeteries
Single-Family Dwellings I, II, III & IV
Two-Family Dwelling
General Retail Establishment II

5.3.C ACCESSORY USES PERMITTED BY RIGHT (P)

Accessory Homesteading Activities I – Accessory gardens in yards
Accessory Homesteading Activities II
Accessory Homesteading Activities III – Keeping of Animals
Accessory Homesteading Activities IV
Forest Management II
Mixed Use Development II
Accessory Residential Uses I – Accessory Dwelling Units Attached

5.3.D PRINCIPAL USES PERMITTED WITH CONDITIONS (C)

Agricultural Service IV – Animal Services Outdoor
Commercial Agriculture & Horticulture I
Commercial Agriculture & Horticulture II – Public Stables
Commercial Agriculture & Horticulture III – Large Scale Composting
Food and Drink Service Establishments

Lodging III – Campgrounds
Lodging IV – Tourist Lodging less than 10 units
Medical Service I – Small
Office Establishments
Personal Service Establishments I
Repair Services II – Medium
Vehicle Sales and Service I
Warehousing & Wholesale I – Self-Storage
Social Institutions II
Community Residential Care Facilities
Mixed-Use Development I
Indoor Entertainment Establishments
Drive-Through Establishments
Religious Institutions

5.3.E ACCESSORY USES PERMITTED WITH CONDITIONS (C)

Lodging II – Bed & Breakfast
Utility and Public Service VII – WECS under 35 ft height
Residential Home Occupations (Type 1)
Accessory Residential Uses II – Accessory Dwelling Units Detached
Accessory Non-Residential Uses I – Outdoor Display and Sales Areas
Accessory Non-Residential Uses II – Outdoor Food & Beverage Service
Accessory Non-Residential Uses III – Outdoor Storage (accessory unenclosed)

5.3.F PRINCIPAL USES PERMITTED BY SPECIAL USE PERMIT (S)

Personal Service Establishments II – Crematoria
Sexually Oriented Business
Industrial Service Establishments I, II & III
Extractive Industries
Warehousing & Wholesale II
Public Buildings I
Utility and Public Service I – Light
Utility and Public Service III – Buried 345kv or larger electric transmission lines
Utility and Public Service VIII & IX – WECS 35 ft and over in height
Institutions for Human Care & Habitation
Group Housing
Mobile Home Park/Manufactured Housing Community
Multiple-Family Dwelling

- 5.3.G ACCESSORY USES PERMITTED BY SPECIAL USE PERMIT (S)**
Residential Home Occupations (Type 2)
Accessory Non-Residential Uses IV – Transient Amusement Enterprises
(temporary)
- 5.3.H DEVELOPMENT REQUIREMENTS (R-1)**
- 5.3.H.1 *LOT CONFIGURATION R-1***
- a. MINIMUM LOT AREA
Minimum lot area in the R-1 district is two (2) acres.
 - b. MINIMUM LOT WIDTH
Minimum lot width in the R-1 district is one-hundred fifty (150) feet.
 - c. MAXIMUM % LOT COVERAGE (STRUCTURES)
Maximum lot coverage for lots smaller than 10 acres in the R-1 district is ten (10) percent.
Maximum lot coverage for lots 10 acres or more in the R-1 district is five (5) percent.
- 5.3.H.2 *MINIMUM SETBACK R-1***
- a. FRONT SETBACK
Minimum front setback in the R-1 district is fifty (50) feet from the property line fronting the nearest public road.
 - b. SIDE SETBACK
Minimum side setback in the R-1 district is thirty (30) feet.
 - c. REAR SETBACK
Minimum rear setback in the R-1 district is fifty (50) feet.
 - d. WATERFRONT SETBACK
Minimum water setback in the R-1 district for a residential use is fifty (50) feet.
Minimum water setback in the R-1 district for a non-residential use is seventy-five (75) feet.
- 5.3.H.3 *PRINCIPAL STRUCTURE STANDARDS R-1***
- a. MAXIMUM BUILDING HEIGHT (STORIES)
Maximum building height for principal structures in the R-1 district is three (3) stories.

- b. **MAXIMUM BUILDING HEIGHT (FEET)**
Maximum building height for principal structures in the R-1 district is forty-two (42) feet.

5.3.H.4 *ACCESSORY STRUCTURE STANDARDS R-1*

- a. **MAXIMUM BUILDING HEIGHT (STORIES)**
Maximum building height for accessory structures in the R-1 district is one and a half (1.5) stories.
- b. **MAXIMUM BUILDING HEIGHT (FEET)**
Maximum building height for accessory structures in the R-1 district is twenty-five (25) feet.

5.3.H.5 *MISCELLANEOUS STANDARDS R-1*

- a. Overnight parking of one (1) commercial vehicle shall be permitted. Outdoor storage of no more than five (5) unlicensed motor vehicles shall be permitted, all other unlicensed motor vehicles must be completely enclosed in a structure.
- b. All objects stored within an allowable outdoor storage area may not exceed the height of any required screen or fence except for recreational units and boats.
- c. The storage of unlicensed motor vehicles is prohibited except when completely enclosed within a structure.

SECTION 5.4 LAKESHORE RESIDENTIAL (R-2)

5.4.A INTENT

This district consists of residential development along the lakeshore. Building design and site layout will reflect the importance of the relationship to the lakeshore. Building coverage of lots will be minimized, open space will be maximized, and paved space will be drained toward landscaping. Standards for setbacks, fencing, etc. will accommodate the sense of frontage on both the lake and road. There may be special consideration and approval regarding the use of qualifying lots for more than one principal use, or for certain economic opportunities.

5.4.B PRINCIPAL USES PERMITTED BY RIGHT (P)

Local Food System Support I – Community Garden
Local Food System Support II – Farmer’s Markets
Convenience Retail Establishments
Repair Services I – Light
Tourist Service Establishments I & II
Essential Services
Public Buildings II – Parks
Single-Family Dwellings I, II, III & IV
Two-Family Dwelling

5.4.C ACCESSORY USES PERMITTED BY RIGHT (P)

Accessory Homesteading Activities I – Accessory gardens in yards
Accessory Homesteading Activities II
Mixed Use Development II
Accessory Residential Uses I – Accessory Dwelling Units Attached

5.4.D PRINCIPAL USES PERMITTED WITH CONDITIONS (C)

Commercial Agriculture & Horticulture I
Commercial Agriculture & Horticulture II – Public Stables
Lodging III – Campgrounds
Lodging IV – Tourist Lodging less than 10 units
Medical Service I - Small
Repair Services II - Medium
Community Residential Care Facilities
Mixed-Use Development I
Food and Drink Service Establishments
Business Service Establishments
Drive-Through Establishments
Forest Management I, II
General Retail II – Small to Medium
Religious Institutions

5.4.E

ACCESSORY USES PERMITTED WITH CONDITIONS (C)

Accessory Homesteading Activities III, IV

Lodging II – Bed & Breakfast

Utility & Public Service VII – WECS under 35 ft height

Residential Home Occupations (Type 1)

Accessory Residential Uses II – Accessory Dwelling Units Detached

Accessory Non-Residential Uses I – Outdoor Display and Sales Areas

Accessory Non-Residential Uses III – Outdoor Storage (accessory unenclosed)

5.4.F

PRINCIPAL USES PERMITTED BY SPECIAL USE PERMIT (S)

Public Buildings I

Utility & Public Service I – Light

Institutions for Human Care & Habitation

Group Housing

Mobile Home Park/Manufactured Housing Community

Multiple-Family Dwelling

5.4.G

ACCESSORY USES PERMITTED BY SPECIAL USE PERMIT (S)

Residential Home Occupations (Type 2)

Accessory Non-Residential Uses II – Outdoor Food & Beverage Service

5.4.H

DEVELOPMENT REQUIREMENTS (R-2)

5.4.H.1

LOT CONFIGURATION R-2

a.

MINIMUM LOT AREA

Minimum lot area in the R-2 district for non-residential uses is one and a half (1.5) acres.

Minimum lot area in the R-2 district for residential uses is fifteen thousand (15,000) square feet.

b.

MINIMUM LOT WIDTH

Minimum lot width in the R-2 district is one-hundred (100) feet.

c.

MAXIMUM % LOT COVERAGE (STRUCTURES)

Maximum lot coverage for non-residential uses in the R-2 district is ten (10) percent.

Maximum lot coverage residential uses in the R-2 district is twenty-five (25) percent.

Maximum lot coverage for Residential Cluster Development in the R-2 district is thirty-five (35) percent (excluding reserved open space).

5.4.H.2 *MINIMUM SETBACK (FEET) R-2*

a. FRONT SETBACK

Minimum front setback in the R-2 district is twenty-five (25) feet from the property line fronting the nearest public road.

b. SIDE SETBACK

Minimum side setback for non-residential uses in the R-2 district is twenty-five (25) feet.

Minimum side setback for residential uses in the R-2 district is ten (10) feet.

c. REAR SETBACK

Minimum rear setback for non-residential uses in the R-2 district is fifty (50) feet.

Minimum rear setback for residential uses in the R-2 district is twenty-five (25) feet.

d. WATER SETBACK

Minimum water setback in the R-2 district for a residential use is fifty (50) feet.

Minimum water setback in the R-2 district for a non-residential use is seventy-five (75) feet.

5.4.H.3 *PRINCIPAL STRUCTURE STANDARDS R-2*

a. MAXIMUM BUILDING HEIGHT (STORIES)

Maximum building height for principal structures in the R-2 district is two and a half (2.5) stories.

b. MAXIMUM BUILDING HEIGHT (FEET)

Maximum building height for principal structures in the R-2 district is thirty-five (35) feet.

5.4.H.4 *ACCESSORY STRUCTURE STANDARDS R-2*

a. MAXIMUM BUILDING HEIGHT – 1.5 STORIES

Maximum building height for accessory structures in the R-2 district is one and a half (1.5) stories.

b. MAXIMUM BUILDING HEIGHT – 25 FEET

Maximum building height for accessory structures in the R-2 district is twenty-five (25) feet.

5.4.H.5 MISCELLANEOUS STANDARDS R-2

- a. No more than one unlicensed motor vehicle can be stored on the property, all other unlicensed motor vehicles must be completely enclosed within a structure.
- b. All objects stored within an allowable outdoor storage area may not exceed the height of any required screen or fence except for recreational units and boats.

SECTION 5.5 RESIDENTIAL (R-3)

5.5.A INTENT

This district is dedicated primarily to single-family residential development in areas that begin to transition to more rural and agricultural areas. The purpose of these areas is to preserve the rural character in a peaceful, residential community. Cluster development through open space design is promoted and encouraged.

5.5.B PRINCIPAL USES PERMITTED BY RIGHT (P)

Local Food System Support I – Community Garden
Local Food System Support II – Farmer’s Markets
Repair Services I – Light
Essential Services
Public Buildings II – Parks
Single-Family Dwellings I, II, III & IV
Two-Family Dwelling

5.5.C ACCESSORY USES PERMITTED BY RIGHT (P)

Accessory Homesteading Activities I – Accessory gardens in yards
Accessory Homesteading Activities II
Mixed Use Development II
Accessory Residential Uses I – Accessory Dwelling Units Attached
Forest Management II

5.5.D PRINCIPAL USES PERMITTED WITH CONDITIONS (C)

Commercial Agriculture & Horticulture I
Repair Services II - Medium
Community Residential Care Facilities
Drive Through Establishment
Religious Institutions

5.5.E ACCESSORY USES PERMITTED WITH CONDITIONS (C)

Accessory Homesteading Activities III – Keeping of animals
Lodging II – Bed & Breakfast

Utility & Public Service VII – WECS under 35 ft height
Residential Home Occupations (Type 1)

5.5.F PRINCIPAL USES PERMITTED BY SPECIAL USE PERMIT (S)

Public Buildings I
Utility & Public Service I – Light
Business Service Establishments
Convenience Retail Establishments

5.5.G ACCESSORY USES PERMITTED BY SPECIAL USE PERMIT (S)

Accessory Homesteading Activities IV
Residential Home Occupations (Type 2)
Accessory Homesteading Activities IV

5.5.H DEVELOPMENT REQUIREMENTS (R-3)

5.5.H.1 *LOT CONFIGURATION R-3*

- a. MINIMUM LOT AREA
Minimum lot area in the R-3 district for non-residential uses is one and a half (1.5) acres.
Minimum lot area in the R-3 district for residential uses is fifteen thousand (15,000) square feet.
- b. MINIMUM LOT WIDTH
Minimum lot width in the R-3 district is one-hundred (100) feet.
- c. MAXIMUM % LOT COVERAGE (STRUCTURES)
Maximum lot coverage for non-residential uses in the R-3 district is ten (10) percent.
Maximum lot coverage residential uses in the R-3 district is twenty-five (25) percent.
Maximum lot coverage for Residential Cluster Development in the R-3 district is thirty-five (35) percent (excluding reserved open space).

5.5.H.2 *MINIMUM SETBACK (FEET) R-3*

- a. FRONT SETBACK
Minimum front setback in the R-3 district is twenty-five (25) feet from the property line fronting the nearest public road.
- b. SIDE SETBACK
Minimum side setback for non-residential uses in the R-3 district is twenty-five (25) feet.

Minimum side setback for residential uses in the R-3 district is ten (10) feet.

c. **REAR SETBACK**

Minimum rear setback for non-residential uses in the R-3 district is fifty (50) feet.
Minimum rear setback for residential uses in the R-3 district is twenty-five (25) feet.

d. **WATER SETBACK**

Minimum water setback in the R-3 district for a residential uses is fifty (50) feet.
Minimum water setback in the R-3 district for a non-residential use is seventy-five (75) feet.

5.5.H.3 *PRINCIPAL STRUCTURE STANDARDS R-3*

a. **MAXIMUM BUILDING HEIGHT (STORIES)**

Maximum building height for principal structures in the R-3 district is two and a half (2.5) stories.

b. **MAXIMUM BUILDING HEIGHT (FEET)**

Maximum building height for principal structures in the R-3 district is thirty-five (35) feet.

5.5.H.4 *ACCESSORY STRUCTURE STANDARDS R-3*

a. **MAXIMUM BUILDING HEIGHT**

Maximum building height for accessory structures in the R-3 district is one and a half (1.5) stories.

b. **MAXIMUM BUILDING HEIGHT**

Maximum building height for accessory structures in the R-3 district is twenty-five (25) feet.

5.5.H.5 *MISCELLANEOUS STANDARDS R-3*

- a. No more than one unlicensed motor vehicle can be stored on the property, all other unlicensed motor vehicles must be completely enclosed within a structure.
- a. All objects stored within an allowable outdoor storage area may not exceed the height of any required screen or fence except for recreational units and boats.

SECTION 5.6 MIXED-USE (MU)

5.6.A INTENT

This district is located in Curtis close to residential concentrations and activity centers such as schools, civic uses, lodging, and businesses. Uses generally serve a local or tourism customer base. It is intended that a variety of residential options be integrated with compatible commercial uses, either mixed within the same building or contiguous to each other. The district consists of smaller lots within a network of connected, rectilinear street systems. In general, buildings closely frame streets that are connected in a walkable pattern. The pedestrian and bicycle landscape is of primary importance, as is accommodation of bicycle traffic with bike lanes and bike racks.

It is intended that homes compatibly coexist with community serving uses such as offices, small businesses, churches, and parks, especially at important intersections. Appropriate buffers and careful layout of structures are important in this area to ensure compatibility. Structures primarily have shallow setbacks with sidewalks or paths separating the structure from the street. The provision of intermittent year-round public spaces is important to enhance social interaction and the pedestrian experience. Seasonal outdoor cafes contribute to the active vitality of this area. On-street parking should be maximized to support customer convenience and walkability. The requirements for off-street parking should be minimized to enhance the pedestrian landscape and ensure compatibility with the surrounding traditional neighborhoods. Landscape buffers should be utilized around the perimeter of surface parking lots. Snow management is very important in this area to ensure year-round economic viability.

5.6.B PRINCIPAL USES PERMITTED BY RIGHT (P)

Agricultural Service II
Agricultural Service III – Animal Services Indoor
Local Food System Support I – Community Garden
Local Food System Support II – Farmer’s Markets
Business Service Establishments
Convenience Retail Establishments
General Retail II – Small to Medium
Lodging I – Hotels, etc.
Lodging IV – Tourist Lodging less than 10 units
Medical Service I – Small
Office Establishments
Personal Service Establishments I
Repair Services I – Light
Research & Development Establishments
Tourist Service Establishments I & II
Vehicle Sales and Service I & II
Industrial Service Establishments I – Light

Warehousing & Wholesale I – Self-Storage
Educational Institutions
Social Institutions I & II
Essential Services
Public Buildings II & III – Parks and Cemeteries
Single-Family Dwellings I, II, III & IV
Two-Family Dwelling
Mixed-Use Development I
Indoor Entertainment Establishments
Food and Drink Service Establishments
Business Service Establishments
General Retail II – Small to Medium

5.6.C ACCESSORY USES PERMITTED BY RIGHT (P)

Accessory Homesteading Activities I – Accessory gardens in yards
Lodging II – Bed & Breakfast
Mixed-Use Development II
Accessory Residential Uses I – Accessory Dwelling Units Attached

5.6.D PRINCIPAL USES PERMITTED WITH CONDITIONS (C)

Agricultural Service IV – Animal Services Outdoor
Commercial Agriculture & Horticulture I
Drive-Through Establishments
Forest Management I
Lodging III – Campgrounds
Repair Services II - Medium
Community Residential Care Facilities
Multiple-Family Dwelling
Religious Institutions

5.6.E ACCESSORY USES PERMITTED WITH CONDITIONS (C)

Forest Management II
Utility & Public Service VII – WECS under 35 ft height
Residential Home Occupations (Type 1)
Accessory Residential Uses II – Accessory Dwelling Units Detached
Accessory Non-Residential Uses I – Outdoor Display and Sales Areas
Accessory Homesteading Activities II

5.6.F PRINCIPAL USES PERMITTED BY SPECIAL USE PERMIT (S)

Personal Service Establishments II – Crematoria

Dangerous Chemicals & Fuels
 Industrial Service Establishments II – Medium
 Warehousing & Wholesale II
 Public Buildings I
 Utility & Public Service I – Light
 Utility and Public Service III – Buried 345kv or larger electric transmission lines
 Utility and Public Service VIII – WECS between 35 ft and 80 ft in height
 Institutions for Human Care & Habitation
 Group Housing
 Mobile Home Park/Manufactured Housing Community

5.6.G ACCESSORY USES PERMITTED BY SPECIAL USE PERMIT (S)

Residential Home Occupations (Type 2)
 Accessory Non-Residential Uses II – Outdoor Food & Beverage Service
 Accessory Non-Residential Uses III – Outdoor Storage (accessory unenclosed)
 Accessory Non-Residential Uses IV – Transient Amusement Enterprises (temporary)
 Accessory Homesteading Activities III – Keeping of animals
 Accessory Homesteading Activities IV

5.6.H DEVELOPMENT REQUIREMENTS (MU)

5.6.H.1 LOT CONFIGURATION MU

- a. **MINIMUM LOT AREA**
 Minimum lot area in the MU district for non-residential or mixed-uses is four thousand (4,000) square feet.
 Minimum lot area in the MU district for residential uses is three thousand seven hundred fifty (3,750) square feet.
 Minimum lot area in the MU district for multiple-family residential uses is five thousand (5,000) square feet.
- b. **MINIMUM LOT WIDTH**
 There is no minimum lot width in the MU district.
- c. **MAXIMUM % LOT COVERAGE (STRUCTURES)**
 There is no maximum percent lot coverage (structures) in the MU district.

5.6.H.2 MINIMUM SETBACK (FEET) MU

- a. **FRONT SETBACK**
 Minimum front setback in the MU district is ten (10) feet from the property line fronting the nearest public road.

b. **SIDE SETBACK**

Minimum side setback for non-residential uses in the MU district is ten (10) feet for structures with side openings. There is no minimum side setback for non-residential uses with no side openings.

Minimum side setback for residential uses in the MU district is ten (10) feet.

*If there is an existing adjacent residence, minimum side setback is ten (10) feet regardless of number of openings on the side of the non-residential use.

c. **REAR SETBACK**

Minimum rear setback in the MU district is ten (10) feet.

d. **WATER SETBACK**

Minimum water setback in the MU district for a residential uses is thirty (30) feet. Minimum water setback in the MU district for a non-residential use is fifty (50) feet.

5.6.H.3 *PRINCIPAL STRUCTURE STANDARDS MU*

a. **MAXIMUM BUILDING HEIGHT (STORIES)**

Maximum building height for principal structures in the MU district is two and a half (2.5) stories.

b. **MAXIMUM BUILDING HEIGHT (FEET)**

Maximum building height for principal structures in the MU district is thirty-five (35) feet.

5.6.H.4 *ACCESSORY STRUCTURE STANDARDS MU*

a. **MAXIMUM BUILDING HEIGHT (STORIES)**

Maximum building height for accessory structures in the MU district is one and a half (1.5) stories.

b. **MAXIMUM BUILDING HEIGHT (FEET)**

Maximum building height for accessory structures in the MU district is twenty-five (25) feet.

5.6.H.5 *MISCELLANEOUS STANDARDS MU*

a. No more than one unlicensed motor vehicle can be stored on the property, all other unlicensed motor vehicles must be completely enclosed within a structure.

b. All objects stored within an allowable outdoor storage area may not exceed the height of any required screen or fence except for recreational units and boats.

SECTION 5.7

SUMMARY DISTRICT DEVELOPMENT REQUIREMENTS

Chart 5-1: Summary of lot sizes, setbacks, and building heights

Zoning District	Lot Configuration			Minimum Setback (feet)				Principal Structure		Accessory Structures	
	Min Lot Area	Min Lot Width	Max % Lot Coverage (Structures)	Front	Side	Rear	Water	Max Bldg Height # Stories	Max Bldg Height (feet)	Max Bldg Height # Stories	Max Bldg Height (feet)
A-1 Agriculture Resource Production	10 acres	150 ft	15% lot smaller than 10 acres (non-conforming); 5% lot 10 acres or more	60 ft	50 ft	50 ft	50 ft residential, 100 ft non-residential	3 stories (Non-Ag)	42 ft (non-ag)	1.5 stories (non-ag)	25 ft (non-ag)
F-1 Forestry Resource Production	20 acres	300 ft	5%	60 ft	50 ft	50 ft	50 ft residential, 100 ft non-residential	3 stories	42 ft	1.5 stories	25 ft
R-1 Rural Residential	2 acres	150 ft	10% lot smaller than 10 acres; 5% lot 10 acres or more	50 ft	30 ft	50 ft	50 ft residential, 75 ft non-residential	3 stories	42 ft	1.5 stories	25 ft
R-2 Lakeshore Residential	1.5 acre non-residential; 15,000 sq ft residential	100 ft	10% non-residential; 25% residential; 35% residential cluster development (excluding reserved open space)	25 ft from nearest ROW	Non- residential 25 ft; residential 10 ft	Non-residential 50 ft; residential 10 ft	Non-residential 75 ft, residential 50 ft	2.5 stories	35 ft	1.5 stories	25 ft
MU Mixed-Use	3,750 sq ft residential; 5,000 sq ft multi-family residential; 4,000 sq ft non-residential or mixed-use	None	None	10 ft	Non- residential zero ft no side openings, 10 ft with side openings; residential 10 ft	10 ft	Non-residential 50 ft, residential 30 ft	2.5 stories	35 ft	1.5 stories	25 ft

ARTICLE 6 SCHEDULE OF DISTRICT REGULATIONS – OVERLAY DISTRICTS

SECTION 6.1 ECONOMIC OPPORTUNITY OVERLAY (EO)

6.1.A INTENT

The intent of this district is to provide a mechanism to allow for larger development that brings beneficial economic opportunity. While it is desirable to permit some development due to benefits associated with employment and tax revenues, there is a need to control the location, intensity, and design of this type of development to prevent undesirable sprawl into rural areas, impact on rural residential uses, and loss of valuable farm or forest lands. This district provides for future economic development opportunity in a form that meets the principles of Low-Impact Development in order to preserve the integrity of the natural resources of the area. These site layout standards include cluster development, minimal soil compaction and disturbance, protected natural water flows, riparian buffer areas, protection for sensitive environmental features, and minimal impervious surfaces. Structural standards include bioretention, stormwater recapture and use, infiltration practices, native re-vegetation, and pervious pavement with infiltration. “Clean industry” and commercial uses that do not create negative environmental impacts are encouraged.

6.1.B APPROVAL

All uses approved for an Economic Opportunity Overlay District shall undergo the Tier 3 application and review procedures and can be commenced subject to compliance with all the terms and conditions contained in the approval after having subsequently been issued a Zoning Compliance Permit and all other applicable permits.

6.1.C CRITERIA FOR DECISIONS – ALL USES

All development shall be designed to achieve the following:

- 6.1.C.1** Provide increases in local tax revenues; and
- 6.1.C.2** Provide protection for local waterbodies and aquifers; and
- 6.1.C.3** Reduce stormwater pollutant loads, increase groundwater recharge, and create additional wildlife habitat by directing runoff to vegetated pervious retention or detention areas; and
- 6.1.C.4** Protect and preserve sensitive environmental areas such as wetlands, wildlife habitats, and steep slopes; and
- 6.1.C.5** Provide appropriate natural vegetated buffers along the perimeter adjacent to other uses and all waterbodies; and
- 6.1.C.6** Minimize the clearing of existing vegetation; and
- 6.1.C.7** Minimize the amount of impervious surfaces.
- 6.1.C.8** Minimize potential health impacts to adjacent residents and wildlife.

6.1.D REGULATIONS APPLICABLE TO ALL USES

- 6.1.D.1** Internal streets shall be designed for the minimum width necessary to support adequate travel lanes and emergency vehicle access.
- 6.1.D.2** Internal access driveways shall be designed for the minimum length and width necessary to accommodate required setbacks and buffer areas.
- 6.1.D.3** Where density, topography and soils permit, vegetated open channels shall be used to convey and treat stormwater runoff.
- 6.1.D.4** Site design shall minimize the clearing of existing vegetation except that the area within one-hundred fifty feet of structures can be cleared and replanted with more appropriate materials for the purpose of wildfire protection.
- 6.1.D.5** Developments are encouraged to utilize native plants.
- 6.1.D.6** Buffers must be shown on the site plan and grading plan.
- 6.1.D.7** The plan must identify the containment and disposal methods for all waste materials and substances.

6.1.E REGULATIONS PER DISTRICT

6.1.E.1 *A-1 AGRICULTURE RESOURCE PRODUCTION DISTRICT*

- a. **PERMITTED USES**
Manufacturing I - Light; Utility & Public Service IV, V, VI – Airports, Rail yards, Park & Rides
- b. **DEVELOPMENT STANDARDS**
- (i) To preserve the maximum area for farmland, minimum lot size may be reduced provided that all setbacks are met. Minimum lot width shall not be reduced.
 - (ii) To preserve the maximum area for farmland, maximum lot coverage may be increased provided that quality bioretention and filtering areas are provided to treat stormwater and runoff is minimized.
 - (iii) Front setback may be reduced provided that all required buffers are installed.
 - (iv) Required Buffers are as follows:
 - 1. Manufacturing I – Light requires Buffer Type B.
 - 2. Utility & Public Service IV (Airports) requires Buffer Type B.
 - 3. Utility & Public Service V (Railyards) requires Buffer Type A.
 - 4. Utility & Public Service VI (Park & Ride) requires Buffer Type D.
 - (v) Water setback may be increased in relation to the potential for contamination of the waterbody.
 - (vi) Building height may be increased to accommodate the use.

c. USE STANDARDS

(i) *Utility & Public Service IV (Airports)*

1. The runway shall not be located within 2,500 feet of any Religious Institutions, Community Residential Care Facilities, or Public Buildings I.
2. A six (6) foot chain link fence is required to prevent the attendant hazards of inadvertent entry onto the airport property.

6.1.E.2 F-1 FORESTRY RESOURCE PRODUCTION DISTRICT

a. PERMITTED USES

Outdoor Recreation and Entertainment (all); Lodging I – Hotels, etc.; Research & Development; Manufacturing I - Light; Educational Institutions; Social Institutions I; Utility & Public Service II - Heavy; Utility & Public Service IV, V, VI – Airports, Railyards, Park & Rides

b. DEVELOPMENT STANDARDS

- (i) To preserve the maximum area for forestry, minimum lot size and minimum lot width may be reduced provided that all setbacks are met.
- (ii) To preserve the maximum area for forestry, maximum lot coverage may be increased provided that quality bioretention and filtering areas are provided to treat stormwater and runoff is minimized.
- (iii) Front setback may be reduced provided that all required buffers are installed.
- (iv) Required buffers are as follows:
 1. Outdoor Commercial Recreation and Entertainment I requires no special buffer.
 2. Outdoor Commercial Recreation and Entertainment II requires Buffer Type D.
 3. Outdoor Commercial Recreation and Entertainment III and IV require Buffer Type B.
 4. Lodging I requires Buffer Type D.
 5. Research & Development and Manufacturing I require Buffer Type D.
 6. Educational and Social Institutions I require no special buffer.
 7. Utility & Public Service II (Heavy), IV (Airports), and V (Railyards) require Buffer Type B.
 8. Utility & Public Service VI (Park & Ride) requires Buffer Type D.
- (v) Side and rear setbacks may be increased to reduce the potential for nuisance impacts on adjacent land uses.
- (vi) Water setback may be increased in relation to the potential for contamination of the waterbody.
- (vii) Building height may be increased to accommodate the use.

c. USE STANDARDS

- (i) Hours of operation may be limited to prevent nuisance impacts on adjacent land uses, and to prevent harmful impacts to nocturnal species in prime habitat areas.
- (ii) *Utility & Public Service IV (Airports)*
 - 1. The runway shall not be located within 2,500 feet of any Religious Institutions, Community Residential Care Facilities, Institutions for Human Care & Habitation, Group Housing, or Public Buildings I.
 - 2. A six (6) foot chain link fence is required to prevent the attendant hazards of inadvertent entry onto the airport property.

6.1.E.3 R-1 RURAL RESIDENTIAL DISTRICT

a. PERMITTED USES

Retail Development I – Large Scale; Outdoor Recreation and Entertainment I, II, III; Lodging I – Hotels, etc.; Research & Development; Vehicle Sales and Service II (Gasoline/Service); Manufacturing I – Light; Educational Institutions; Social Institutions I; Utility & Public Service II – Heavy; Utility & Public Service IV, V, VI – Airports, Railyards, Park & Rides

b. DEVELOPMENT STANDARDS

- (i) Minimum lot size and minimum lot width may be increased to reduce the potential for nuisance impacts on adjacent land uses.
- (ii) Minimum setbacks may be increased to reduce the potential for nuisance impacts on adjacent land uses.
- (iii) Required buffers are as follows:
 - 1. Retail Development I (Large Scale) and Indoor Entertainment Establishments require Buffer Type B.
 - 2. Outdoor Commercial Recreation and Entertainment I and II require Buffer Type B.
 - 3. Outdoor Commercial Recreation and Entertainment III requires Buffer Type A.
 - 4. Lodging I requires Buffer Type D.
 - 5. Vehicle Sales and Service II (Gasoline/Service) requires Buffer Type B.
 - 6. Research & Development and Manufacturing I require Buffer Type B.
 - 7. Educational and Social Institutions I require Buffer Type B.
 - 8. Utility & Public Service II (Heavy), IV (Airports), and V (Railyards) require Buffer Type A.
 - 9. Utility & Public Service VI (Park & Ride) requires Buffer Type D.
- (iv) Water setback may be increased in relation to the potential for contamination of the waterbody.

c. USE STANDARDS

- (i) Hours of operation may be limited to prevent nuisance impacts on adjacent land uses, and to prevent harmful impacts to nocturnal species in prime habitat areas.

(ii) *Retail Development I*

1. Surface parking shall be on the side or rear of the building and not on a street corner so that the primary visual focus of the development is the building, not the parking.
2. For developments adjacent to vacant properties, the site shall be designed to provide for a future access connection.
3. Facades greater than one-hundred (100) feet in length shall not utilize blank walls without openings, façade variation, or changes in materials or textures.

(iii) *Outdoor Commercial Recreation & Entertainment*

1. If the use is located within two-hundred (200) feet of a residence, outdoor public address systems and all types of amplified sound devices are prohibited.
2. All applications for archery, rifle, skeet, and trap shooting ranges shall be accompanied with a written description of all design characteristics and operational measures to ensure safety and prevent nuisance impacts on nearby properties.

(iv) *Vehicle Sales & Service II (Gasoline/Service)*

1. No more than two (2) driveways shall be permitted.
2. No driveway shall be located within fifteen (15) feet of an adjacent property line unless it is a shared driveway.
3. Canopies shall not exceed sixteen (16) feet in height.

(v) *Research & Development & Manufacturing I (Light)*

1. All operations shall be conducted wholly within a completely enclosed building.
2. Surface parking shall be on the side or rear of the building and not on a street corner so that the primary visual focus of the development is the building, not the parking.
3. For developments adjacent to vacant properties, the site shall be designed to provide for a future access connection.
4. Facades greater than one-hundred (100) feet in length shall not utilize blank walls without openings, façade variation, or changes in materials or textures.

(vi) *Utility & Public Service II (Heavy)*

- A fence of solid materials up to eight (8) feet tall may be required to mitigate potential nuisance impacts and to improve aesthetics.

(vii) *Utility & Public Service IV (Airports)*

1. The runway shall not be located within 2,500 feet of any Religious Institutions, Community Residential Care Facilities, Institutions for Human Care & Habitation, Group Housing, or Public Buildings I.
2. A six (6) foot chain link fence is required to prevent the attendant hazards of inadvertent entry onto the airport property.

(viii) *Utility & Public Service II (Railyards)*

A fence of solid materials up to eight (8) feet tall may be required to mitigate potential nuisance impacts and to improve aesthetics of outdoor storage areas.

6.1.E.4 *R-2 LAKESHORE RESIDENTIAL DISTRICT*

a. PERMITTED USES

Indoor Entertainment Establishments; Outdoor Commercial Recreation & Entertainment I; Lodging I – Hotels, etc.; Personal Service I; Research & Development; Educational Institutions

b. DEVELOPMENT STANDARDS

- (i) Minimum lot width may be increased to reduce the potential for nuisance impacts on adjacent land uses.
- (ii) All above permitted uses require Buffer Type B.
- (iii) Water setback may be increased in relation to the potential for contamination of the waterbody.

c. USE STANDARDS

- (i) Hours of operation may be limited to prevent nuisance impacts on adjacent land uses, and to prevent harmful impacts to nocturnal species in prime habitat areas.
- (ii) If the use is located within two-hundred (200) feet of a residence, outdoor public address systems and all types of amplified sound devices are prohibited.

6.1.E.5 *R-3 RESIDENTIAL DISTRICT*

a. PERMITTED USES

Educational Institutions

b. DEVELOPMENT STANDARDS

- (i) Minimum lot area may be increased to reduce the potential for nuisance impacts on adjacent land uses.
- (ii) Educational Institutions require Buffer Type C.
- (iii) Water setback may be increased in relation to the potential for contamination of the waterbody.

- c. USE STANDARDS
 - (i) Hours of operation may be limited to prevent nuisance impacts on adjacent land uses, and to prevent harmful impacts to nocturnal species in prime habitat areas.
 - (ii) Surface parking shall be on the side or rear of the building and not on a street corner so that the primary visual focus of the development is the building, not the parking.

6.1.E.6 MU MIXED-USE DISTRICT

- a. PERMITTED USES
Retail Development I – Large Scale; Outdoor Commercial Recreation & Entertainment I & II; Medical Service II – Large; Manufacturing I - Light; Utility & Public Service II - Heavy; Utility & Public Service IV, V, VI – Airports, Rail yards, Park & Rides
- b. DEVELOPMENT STANDARDS
 - (i) Minimum lot size may be increased to reduce the potential for nuisance impacts on adjacent land uses.
 - (ii) A minimum lot width and maximum lot coverage may be required to reduce the potential for nuisance impacts on adjacent land uses.
 - (iii) Minimum setbacks may be increased to reduce the potential for nuisance impacts on adjacent land uses.
 - (iv) Required buffers are as follows:
 1. Retail Development I (Large Scale) requires Buffer Type B.
 2. Outdoor Commercial Recreation and Entertainment I and II require Buffer Type B.
 3. Medical Service II (Large) requires Buffer Type B.
 4. Manufacturing I (Light) requires Buffer Type B.
 5. Utility & Public Service II (Heavy), IV (Airports), and V (Railyards) require Buffer Type A.
 6. Utility & Public Service VI (Park & Ride) requires Buffer Type D.
 - (v) Water setback may be increased in relation to the potential for contamination of the waterbody.
- c. USE STANDARDS
 - (i) Hours of operation may be limited to prevent nuisance impacts on adjacent land uses.
 - (ii) *Retail Development I*
 1. Surface parking shall be on the side or rear of the building and not on a street corner so that the primary visual focus of the development is the building, not the parking.

2. Pedestrian access from the street right-of-way to the principal structure shall be provided through a visually distinct improved surface that provides safe crossings of auto travel lanes and parking areas.
3. Where a proposed parking lot is adjacent to an existing parking lot, there shall be a vehicular connection between the two parking lots where physically feasible.
4. For developments adjacent to vacant properties, the site shall be designed to provide for a future access connection.
5. Facades greater than one-hundred (100) feet in length shall not utilize blank walls without openings, façade variation, or changes in materials or textures.
6. The building shall provide an entrance that is protected from the elements to accommodate pedestrians.

(iii) Outdoor Commercial Recreation & Entertainment

If the use is located within one-hundred (100) feet of a residence, outdoor public address systems and all types of amplified sound devices are prohibited.

(iv) Medical Services II (Large) & Manufacturing I (Light)

1. All operations shall be conducted wholly within a completely enclosed building.
2. Surface parking shall be on the side or rear of the building and not on a street corner so that the primary visual focus of the development is the building, not the parking.
3. For developments adjacent to vacant properties, the site shall be designed to provide for a future access connection.
4. Facades greater than one-hundred (100) feet in length shall not utilize blank walls without openings, façade variation, or changes in materials or textures.

(v) Utility & Public Service II (Heavy)

A fence of solid materials up to eight (8) feet tall may be required to mitigate potential nuisance impacts and to improve aesthetics.

(vi) Utility & Public Service IV (Airports)

1. The runway shall not be located within 2,500 feet of any places of assembly or group housing.
2. A six (6) foot chain link fence is required to prevent the attendant hazards of inadvertent entry onto the airport property.

(vii) Utility & Public Service II (Railyards)

A fence of solid materials up to eight (8) feet tall may be required to mitigate potential nuisance impacts and to improve aesthetics of outdoor storage areas.

SECTION 6.2 RIPERIAN PROTECTION OVERLAY (RO)

6.2.A INTENT

This district contains special regulations addressing water and shoreline protection. Primary importance will be placed on development patterns and land practices that preserve access to the lakeshore and protect the natural environment. Vegetated buffers provide important environmental benefits including restoring and maintaining the physical and biological integrity of the water resource, removing pollutants from urban stormwater, stabilizing stream banks resulting in reduced erosion and sedimentation, maintaining base flow of streams, and providing tree canopy to shade streams and regulate temperature. Higher runoff results in decreased groundwater recharge, decreased baseflow, flashier stream flow, increases in temperatures, etc.

6.2.B APPROVED USES PER BUFFER ZONE

Two buffer zones will be established for riparian protection as follows:

6.2.B.1 *SHORESIDE ZONE*

This area is identified as the first twenty-five (25) feet from the water's edge. In the presence of wetlands, it extends another twenty (20) feet from the landward edge of the wetland.

a. PERMITTED ACTIVITIES

- (i) Footpaths
- (ii) Road crossings
- (iii) Utility right-of-ways
- (iv) Flood control structures

b. RESTRICTED ACTIVITIES

- (i) Removal of existing vegetation (except where necessary to accommodate permitted activities)
- (ii) Soil disturbance (grading or filling)
- (iii) Use of pesticide or fertilizer
- (iv) Presence of livestock
- (v) Use of motorized vehicles
- (vi) Construction of permanent structures

6.2.B.2 *OUTER ZONE*

Begins at the edge of the Shoreside Zone and extends inland another twenty-five (25) feet.

a. PERMITTED ACTIVITIES

Includes all those in the shoreside zone plus the following:

- (i) Removal of mature tree cover (retention of shrub layer and herbaceous groundcover is required to allow for infiltration of run-off)
- (ii) Bike paths
- (iii) Stormwater management facilities

- (iv) Passive recreation uses
- b. RESTRICTED ACTIVITIES
 - (i) Soil disturbance (grading or filling)
 - (ii) Use of pesticide or fertilizer
 - (iii) Presence of livestock
 - (iv) Use of motorized vehicles
 - (v) Construction of permanent structures
- c. If there are steep slopes adjacent to the outer zone, the outer zone shall extend to ten (10) feet beyond the top area where the slope stabilizes.

6.2.C MODIFICATION OF RIPERIAN PROTECTION PROVISIONS

6.2.C.1 Permitted and restricted activities may be modified if the Planning Commission finds that such modifications shall be consistent with management practices that will prevent soil loss, and will not increase run-off, and will provide the shoreline with adequate protection without altering the inherent characteristics of the water body. Lawns alone (particularly those treated with chemicals) are not sufficient for reducing runoff into waterbodies, but may be proposed in combination with other solutions for Planning Commission consideration.

6.2.C.2 Individual trees within the riparian buffer that are in imminent danger of falling or have died may be removed.

6.2.C.3 Restoration projects that increase vegetation and improve soil erosion are permitted if approved by the Planning Commission.

ARTICLE 7 SPECIAL USE PROVISIONS

As provided in the *Michigan Zoning Enabling Act, PA 110 of 2006, as amended*, site plans for conditional and special uses may be approved with reasonable conditions that are necessary to achieve certain objectives. The purpose of this Section is to establish criteria that shall be applied in the determination of requests for Conditional and Special Uses as identified in Tables 4-1 and 4-2. Application, review, and approval procedures can be found in Article 8. The criteria for decisions and requirements set forth in this Article shall be in addition to those required elsewhere in this Ordinance applying to the use or location under consideration.

SECTION 7.1 GENERAL CRITERIA FOR SPECIAL USE DECISIONS

In making a decision or taking any action on a conditional or special use the appropriate decision body shall consider the following criteria:

- 7.1.A** The extent that the proposed uses, structures, and activities support and advance the policies, goals, and objectives of the Portage Township Master Plan.
- 7.1.B** The extent that the proposed uses, structures, and activities meet the stated intent of this Ordinance.
- 7.1.C** The extent that the roadways, water and waste facilities, stormwater facilities, utilities, communications facilities, energy facilities, alternative transportation facilities, and other infrastructure as it now exists may be modified to ensure sufficient capacity and public services for the needs of the proposed uses and the community.
- 7.1.D** The extent that the proposed buildings, structures and access facilities are designed to minimize adverse effects on nearby properties.
- 7.1.E** The extent that natural features are retained or protected, particularly when they provide a barrier or buffer between properties with different land use intensity (LUI) categories.
- 7.1.F** The extent that any anticipated adverse impacts are controlled or mitigated.
- 7.1.G** The extent that the proposed uses, structures, and activities preserve or enhance views that are key assets of the community and its character.
- 7.1.H** The extent that the proposed development will advance the community's economic development.
- 7.1.I** The extent that the proposed uses and activities are likely to comply with all other applicable laws, rules, regulations, permits and license requirements, and whether violations are likely.

SECTION 7.2

SPECIFIC STANDARDS FOR CONDITIONAL & SPECIAL USES

7.2.A

AGRICULTURAL SERVICE ESTABLISHMENTS I

7.2.A.1

Outdoor livestock pens and feedlots shall be located at least two-hundred fifty (250) feet from all property lines and one-hundred fifty (150) feet from any waterbody.

7.2.B

AGRICULTURAL SERVICE ESTABLISHMENTS IV

7.2.B.1

The facility shall have waste disposal systems adequate to handle all animal waste generated at its maximum capacity without utilizing outdoor storage of wastes.

7.2.B.2

The facility shall be designed, constructed, operated, and maintained in such a manner to at all times provide humane, clean, dry, and sanitary conditions for each animal kept on the premises, including sufficient square footage for each animal, in accordance with applicable state laws and regulations, and the recommendations of the U.S. Department of Agriculture and the American Kennel Club.

7.2.B.3

Animal services facilities or kennels with outdoor (not fully enclosed) facilities must meet the following requirements:

- a. Must be located at least one-hundred (100) feet from all lot lines.
- b. Outside animal runs and/or outside dog exercise areas shall be sufficiently monitored such that any dog(s) engaging in repetitive barking shall be promptly brought inside.
- c. A privacy fence six (6) feet in height meeting the standards of Section 3.7 shall be installed to screen all the outdoor, unenclosed kennel facilities and exercise runs from view.

7.2.C

COMMERCIAL AGRICULTURE OR HORTICULTURE I

7.2.C.1

Commercial Agriculture or Horticulture I facilities with animals require Buffer Type C on any side adjacent to a residential use.

7.2.C.2

All animals shall be suitably enclosed and maintained under good sanitary standards. No animals shall constitute a nuisance to neighboring property by reason of odor, sanitary conditions, or trespass.

7.2.D

COMMERCIAL AGRICULTURE OR HORTICULTURE II – PUBLIC STABLES

7.2.D.1

Commercial Agriculture or Horticulture II facilities require Buffer Type C on any side adjacent to a residential use.

7.2.D.2

All animals shall be suitably enclosed and maintained under good sanitary standards. No animals shall constitute a nuisance to neighboring property by reason of odor, sanitary conditions, or trespass.

- 7.2.E COMMERCIAL AGRICULTURE OR HORTICULTURE III – LARGE SCALE COMPOSTING**
- 7.2.E.1** Commercial Agriculture or Horticulture III facilities require Buffer Type B.
- 7.2.F ACCESSORY HOMESTEADING II**
- 7.2.F.1** Lots containing Accessory Homesteading II activities require Buffer Type B.
- 7.2.F.2** Any structure used for housing bees shall be located at least ten (10) feet from any lot line, provided however that when any hive structures are located within the minimum required setback for that zoning district, the hive structures shall be screened on all sides within the minimum setback area by a solid fence at least six (6) feet in height extending a minimum of ten (10) feet beyond the hive structures and meeting the standards of Section 3.7. If the standards of Section 3.7 prohibit a six (6) foot fence in that location, the hive structures shall meet the minimum required setback for that zoning district.
- 7.2.F.3** A convenient source of water shall be available for bees on the premises at all times so that the bees are less likely to congregate at swimming pools, pet watering dishes, or other water sources off the property.
- 7.2.F.4** Poultry and other fowl shall be provided, and remain within, a fully enclosed shelter with an optional covered fenced enclosure in the rear yard.
- 7.2.F.5** The keeping of roosters is prohibited.
- 7.2.F.6** Coops and feed shall be secured to prevent rodent infestation.
- 7.2.G ACCESSORY HOMESTEADING III**
- 7.2.G.1** Lots containing Accessory Homesteading III activities require Buffer Type C.
- 7.2.G.2** All animals shall be suitably enclosed and maintained under good sanitary standards. No animals shall constitute a nuisance to neighboring property by reason of odor, sanitary conditions, threat to public health, or trespass.
- 7.2.G.3** All grazing areas shall be fenced. All outdoor animal runs or pens shall be located a minimum of twenty-five (25) feet from any lot line. This requirement may be increased up to a maximum of one-hundred (100) feet in relation to the residential density of the area, number of animals to be kept and potential for nuisance impacts, provided however that this provision cannot be used to completely exclude the activity, but only to address the scale and intensity of such activity.
- 7.2.H ACCESSORY HOMESTEADING IV**
- 7.2.H.1** Lots containing Accessory Homesteading IV activities require Buffer Type C.
- 7.2.H.2** All animals shall be suitably enclosed and maintained under good sanitary standards. No animals shall constitute a nuisance to neighboring property by reason of odor, sanitary conditions, or trespass.

- 7.2.H.3** All outdoor animal runs or pens shall be located a minimum of thirty-five (35) feet from any lot line.
- 7.2.I BUSINESS SERVICE ESTABLISHMENTS**
- 7.2.I.1** No more than two (2) driveways shall be permitted.
- 7.2.I.2** No driveway shall be located within fifteen (15) feet of an adjacent property line unless it is a shared driveway.
- 7.2.J CONVENIENCE RETAIL ESTABLISHMENTS**
- 7.2.J.1** No more than two (2) driveways shall be permitted.
- 7.2.J.2** No driveway shall be located within fifteen (15) feet of an adjacent property line unless it is a shared driveway.
- 7.2.K DRIVE-THROUGH ESTABLISHMENTS**
- 7.2.K.1** Outdoor speakers shall be located and screened in a way that minimizes sound transmission toward adjacent property.
- 7.2.K.2** No more than two (2) driveways shall be permitted.
- 7.2.K.3** No driveway shall be located within fifteen (15) feet of an adjacent property line unless it is a shared driveway.
- 7.2.L FOOD AND DRINK SERVICE ESTABLISHMENTS**
- 7.2.L.1** Hours of operation may be limited to prevent nuisance impacts on adjacent land uses.
- 7.2.L.2** Outdoor speakers shall be located and screened in a way that minimizes sound transmission toward adjacent property.
- 7.2.L.3** No more than two (2) driveways shall be permitted.
- 7.2.L.4** No driveway shall be located within fifteen (15) feet of an adjacent property line unless it is a shared driveway.
- 7.2.M FOREST MANAGEMENT I & II**
- 7.2.M.1** Hours of operation may be limited to prevent nuisance impacts on adjacent land uses.
- 7.2.M.2** All fallen trees and debris shall be contained on the premises at all times (shall not be allowed to rest on adjacent properties).
- 7.2.N GENERAL RETAIL II**
- 7.2.N.1** General Retail II Establishments require Buffer Type C.
- 7.2.N.2** No more than two (2) driveways shall be permitted.
- 7.2.N.3** No driveway shall be located within fifteen (15) feet of an adjacent property line unless it is a shared driveway.

- 7.2.0 LODGING II**
- 7.2.0.1** The Bed and Breakfast must be the primary dwelling unit for the owner, who must operate and occupy the structure.
- 7.2.0.2** The exterior appearance of the structure shall be harmonious with the character of the surrounding district.
- 7.2.0.3** Meals shall not be served to the public at large but only to registered guests.
- 7.2.0.4** No receptions, private parties or activities for which a fee is paid shall be permitted except for those which involve only registered guests.
- 7.2.P LODGING III**
- 7.2.P.1** Lodging III uses require Buffer Type B.
- 7.2.P.2** The facility shall be located on a minimum of ten (10) acres.
- 7.2.P.3** Management headquarters, recreational facilities, toilets, showers, laundry facilities, and other uses and structures customarily incidental to the operation are permitted as accessory uses provided that:
- 7.2.P.4** Such establishments shall be restricted in their use primarily to occupants of the park.
- 7.2.P.5** Such uses are setback at least one-hundred feet from any lot line.
- 7.2.P.6** No driveway shall be located within fifteen (15) feet of an adjacent property line unless it is a shared driveway.
- 7.2.Q LODGING IV**
- 7.2.Q.1** Management headquarters, recreational facilities, toilets, showers, laundry facilities, and other uses and structures customarily incidental to the operation are permitted as accessory uses provided that:
- 7.2.Q.2** Such establishments shall be restricted in their use primarily to occupants of the park.
- 7.2.Q.3** Such uses are setback at least fifty (50) feet from any lot line.
- 7.2.Q.4** No driveway shall be located within fifteen (15) feet of an adjacent property line unless it is a shared driveway.
- 7.2.R MEDICAL SERVICE ESTABLISHMENTS I**
- 7.2.R.1** No more than two (2) driveways shall be permitted.
- 7.2.R.2** No driveway shall be located within fifteen (15) feet of an adjacent property line unless it is a shared driveway.
- 7.2.S OFFICE ESTABLISHMENTS**
- 7.2.S.1** No more than two (2) driveways shall be permitted.
- 7.2.S.2** No driveway shall be located within fifteen (15) feet of an adjacent property line unless it is a shared driveway.

- 7.2.T PERSONAL SERVICE ESTABLISHMENTS I**
- 7.2.T.1** No more than two (2) driveways shall be permitted.
- 7.2.T.2** No driveway shall be located within fifteen (15) feet of an adjacent property line unless it is a shared driveway.
- 7.2.T.3** All storage tanks and other facilities used to store hazardous, toxic, odorous, explosive, or flammable substances shall be located and constructed to prevent the migration of such substances into the ground or surface waters and to prevent such substances from being perceptible outside such containment.
- 7.2.T.4** Facilities for funeral services shall be configured with sufficient assembly space for vehicles in funeral processions in addition to any required parking. Ingress and egress shall be designed to minimize potential conflicts with traffic on adjacent streets and pedestrians. Loading and unloading areas for hearses, ambulances and other such service vehicles shall be obscured from the street right-of-way and adjacent residences by a wall or solid fence meeting the requirements of Section 3.7.
- 7.2.U PERSONAL SERVICE ESTABLISHMENTS II**
- 7.2.U.1** Personal Service Establishments II require Buffer Type B.
- 7.2.U.2** A building that contains crematorium facilities shall be located at least one-hundred (100) feet from any residential use.
- 7.2.U.3** No more than two (2) driveways shall be permitted.
- 7.2.U.4** No driveway shall be located within fifteen (15) feet of an adjacent property line unless it is a shared driveway.
- 7.2.U.5** All storage tanks and other facilities used to store hazardous, toxic, odorous, explosive, or flammable substances shall be located and constructed to prevent the migration of such substances into the ground or surface waters and to prevent such substances from being perceptible outside such containment.
- 7.2.U.6** Facilities for funeral services shall be configured with sufficient assembly space for vehicles in funeral processions in addition to any required parking. Ingress and egress shall be designed to minimize potential conflicts with traffic on adjacent streets and pedestrians. Loading and unloading areas for hearses, ambulances and other such service vehicles shall be obscured from the street right-of-way and adjacent residences by a wall or solid fence meeting the requirements of Section 3.7.
- 7.2.V REPAIR SERVICES II**
- 7.2.V.1** Repair Services II establishments require Buffer Type D.
- 7.2.V.2** Outdoor public address or loudspeaker systems are prohibited.
- 7.2.V.3** The following activities and equipment are permitted only in the rear yard and at least fifty (50) feet from a residential or mixed-use:

- a. Storage of vehicle parts and refuse within a six (6) foot privacy fence or enclosed structure
- b. Temporary storage of vehicles during repair and pending delivery to the customer
- c. Vacuuming, and cleaning
- 7.2.V.4** The following activities and equipment are permitted only within an enclosed building:
 - a. Servicing and repair activities, including body work and painting
 - b. Lubrication equipment
 - c. Motor vehicle washing equipment
 - d. Hydraulic hoists and pits
- 7.2.V.5** Vehicles being serviced or stored for customers shall not be parked on public rights-of-way.

- 7.2.W** **SEXUALLY ORIENTED BUSINESS**
- 7.2.W.1** No person shall reside in or on, or permit a person to reside in or on, a building or property occupied by a sexually oriented business.
- 7.2.W.2** No sexually oriented business shall be established on a parcel within one-thousand (1,000) feet of any of the following, as measured in a straight line from the nearest property line upon which the proposed sexually oriented business is to be located to the nearest property line of the use as follows:
 - a. Dwelling or mixed-use facility containing residences;
 - b. Educational institution;
 - c. Religious institution;
 - d. Social institution;
 - e. Public building and related facilities;
 - f. Institutions for human care and habitation;
 - g. Community residential care;
 - h. Group housing;
 - i. Mobile home park or manufactured housing community;
 - j. Licensed care home or facility;
 - k. Other sexually oriented business.
- 7.2.W.3** No sign shall include visual representations of specified anatomical areas or specified sexual activities.
- 7.2.W.4** No product or service for sale or gift, or any picture or other representation of any product or service for sale or gift, shall be displayed so as to be visible from the nearest adjacent roadway or property.
- 7.2.W.5** Hours of operation shall be limited to 10:00 AM to 10:00 PM., Monday through Saturday.

- 7.2.X** **VEHICLE SALES AND SERVICE ESTABLISHMENTS I**
- 7.2.X.1** Vehicle Sales and Service Establishments I require Buffer Type D.
- 7.2.X.2** Outdoor public address or loudspeaker systems are prohibited.

- 7.2.X.3** The following activities and equipment are permitted only in the rear yard and at least fifty (50) feet from a residential or mixed-use:
- a. Storage of vehicle parts and refuse within a six (6) foot privacy fence or enclosed structure
 - b. Temporary storage of vehicles during repair and pending delivery to the customer
 - c. Vacuuming, and cleaning
- 7.2.X.4** The following activities and equipment are permitted only within an enclosed building:
- a. Servicing and repair activities, including body work and painting
 - b. Lubrication equipment
 - c. Motor vehicle washing equipment
 - d. Hydraulic hoists and pits
- 7.2.X.5** Vehicles being serviced or stored for customers shall not be parked on public rights-of-way.
- 7.2.Y DANGEROUS CHEMICALS & FUELS**
- 7.2.Y.1** Manufacturing or storage establishments which produce or store flammable, explosive, or corrosive substances require Buffer Type A.
- 7.2.Y.2** Minimum lot size shall be five (5) acres.
- 7.2.Y.3** Any such facility shall be located at least five hundred (500) feet from a residential use or zone.
- 7.2.Y.4** All storage tanks and other facilities used to store hazardous, toxic, odorous, explosive, or flammable substances shall be located and constructed to prevent the migration of such substances into the ground or surface waters and to prevent such substances from being perceptible outside such containment.
- 7.2.Z INDUSTRIAL SERVICE ESTABLISHMENTS I: LIGHT**
- 7.2.Z.1** Industrial Service Establishments I require Buffer Type D.
- 7.2.Z.2** All processes shall be conducted only within an enclosed building.
- 7.2.Z.3** Any outdoor storage areas shall be located in a side or rear yard and shall be screened by a fence of sufficient height to hide all materials from the public right-of-way and adjacent properties. All activities, equipment or materials shall be confined within the fenced-in area or the building with no stacking of materials above the height of the fence.
- 7.2.Z.4** All fenced in areas shall be a minimum of fifty (50) feet from a public right-of-way or adjacent property.
- 7.2.Z.5** No more than two (2) driveways shall be permitted.
- 7.2.Z.6** No driveway shall be located within fifteen (15) feet of an adjacent property line unless it is a shared driveway.

- 7.2.Z.7** All storage tanks and other facilities used to store hazardous, toxic, odorous, explosive, or flammable substances shall be located and constructed to prevent the migration of such substances into the ground or surface waters and to prevent such substances from being perceptible outside such containment.
- 7.2.AA** **INDUSTRIAL SERVICE II: MEDIUM**
- 7.2.AA.1** Industrial Service Establishments II require Buffer Type D.
- 7.2.AA.2** Any outdoor storage areas shall be located in a side or rear yard and shall be screened by a fence of sufficient height to hide all materials from the public right-of-way and adjacent properties. All activities, equipment or materials shall be confined within the fenced-in area or the building with no stacking of materials above the height of the fence.
- 7.2.AA.3** All outdoor storage areas with required screening shall be a minimum of fifty (50) feet from a public right-of-way or adjacent property. The Planning Commission may increase this distance up to a maximum of one-hundred (100) feet based on the intensity of the use and surrounding neighborhood context.
- 7.2.AA.4** No more than two (2) driveways shall be permitted.
- 7.2.AA.5** No driveway shall be located within fifteen (15) feet of an adjacent property line unless it is a shared driveway.
- 7.2.AA.6** All storage tanks and other facilities used to store hazardous, toxic, odorous, explosive, or flammable substances shall be located and constructed to prevent the migration of such substances into the ground or surface waters and to prevent such substances from being perceptible outside such containment.
- 7.2.AA.7** The applicant shall demonstrate to the Planning Commission proper design and licensing measures as required by State and Federal statutory and regulatory authority.
- 7.2.BB** **INDUSTRIAL SERVICE III: HEAVY**
- 7.2.BB.1** Industrial Service Establishments III require Buffer Type B.
- 7.2.BB.2** Minimum lot size is ten (10) acres.
- 7.2.BB.3** The Planning Commission may establish hours of operation to protect the character of the land uses in the vicinity.
- 7.2.BB.4** Any outdoor storage areas shall be located in a side or rear yard and shall be screened by a fence of sufficient height to hide all materials from the public right-of-way and adjacent properties. All activities, equipment or materials shall be confined within the fenced-in area or the building with no stacking of materials above the height of the fence.
- 7.2.BB.5** All outdoor storage areas with required screening shall be a minimum of one-hundred (100) feet from a public right-of-way or adjacent property. The Planning Commission may increase buffering, setbacks, screening, 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.

- 7.2.BB.6** No more than two (2) driveways shall be permitted.
- 7.2.BB.7** No driveway shall be located within fifteen (15) feet of an adjacent property line unless it is a shared driveway.
- 7.2.BB.8** All storage tanks and other facilities used to store hazardous, toxic, odorous, explosive, or flammable substances shall be located and constructed to prevent the migration of such substances into the ground or surface waters and to prevent such substances from being perceptible outside such containment.
- 7.2.BB.9** The applicant shall demonstrate to the Planning Commission proper design and licensing measures as required by State and Federal statutory and regulatory authority.

7.2.CC EXTRACTVE INDUSTRIES

- 7.2.CC.1** Extractive industries require Buffer Type B.
- 7.2.CC.2** The subject lot shall be maintained in such as condition that there is no land condition which will cause injury to adjoining properties.
- 7.2.CC.3** The applicant shall provide a site restoration plan to ensure that the site is restored following extraction.
- 7.2.CC.4** The Planning Commission may establish hours of operation to protect the character of the land uses in the vicinity.
- 7.2.CC.5** No more than two (2) driveways shall be permitted.
- 7.2.CC.6** No driveway shall be located within twenty-five (25) feet of an adjacent property line unless it is a shared driveway.
- 7.2.CC.7** The applicant shall demonstrate to the Planning Commission proper design and licensing measures as required by State and Federal statutory and regulatory authority.

7.2.DD MANUFACTURING II: HEAVY

- 7.2.DD.1** Manufacturing II uses require Buffer Type B.
- 7.2.DD.2** Setbacks (including water setback) and minimum lot size may be increased to reduce the potential for nuisance impacts on adjacent land uses or reduce the potential for contamination of waterbodies.
- 7.2.DD.3** Building height may be increased to accommodate the use.
- 7.2.DD.4** The Planning Commission may establish hours of operation to protect the character of the land uses in the vicinity.
- 7.2.DD.5** Any outdoor storage areas shall be located in a side or rear yard and shall be screened by a fence of sufficient height to hide all materials from the public right-of-way and adjacent properties. All activities, equipment or materials shall be confined within the fenced-in area or the building with no stacking of materials above the height of the fence.

- 7.2.DD.6** All outdoor storage areas with required screening shall be a minimum of one-hundred (100) feet from a public right-of-way or adjacent property. The Planning Commission may increase buffering, screening, 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.
- 7.2.DD.7** No more than two (2) driveways shall be permitted.
- 7.2.DD.8** No driveway shall be located within fifteen (15) feet of an adjacent property line unless it is a shared driveway.
- 7.2.DD.9** All storage tanks and other facilities used to store hazardous, toxic, odorous, explosive, or flammable substances shall be located and constructed to prevent the migration of such substances into the ground or surface waters and to prevent such substances from being perceptible outside such containment.
- 7.2.DD.10** The applicant shall demonstrate to the Planning Commission proper design and licensing measures as required by State and Federal statutory and regulatory authority.
- 7.2.EE** **WAREHOUSING & WHOLESALE TRADE ESTABLISHMENTS I**
- 7.2.EE.1** Warehousing and wholesale trade establishments I require Buffer Type D.
- 7.2.EE.2** Traffic direction and parking shall be prominently indicated.
- 7.2.EE.3** No storage of hazardous substances, toxic, or explosive materials shall be permitted at the facility.
- 7.2.FF** **WAREHOUSING & WHOLESALE TRADE ESTABLISHMENTS II**
- 7.2.FF.1** Warehousing and wholesale trade establishments I require Buffer Type B.
- 7.2.FF.2** No storage of hazardous substances, toxic, or explosive materials shall be permitted at the facility.
- 7.2.FF.3** Any outdoor storage areas shall be located in a side or rear yard and shall be screened by a fence of sufficient height to hide all materials from the public right-of-way and adjacent properties. All activities, equipment or materials shall be confined within the fenced-in area or the building with no stacking of materials above the height of the fence.
- 7.2.FF.4** All outdoor storage areas with required screening shall be a minimum of fifty (50) feet from a public right-of-way or adjacent property. The Planning Commission may increase this distance up to a maximum of one-hundred (100) feet based on the intensity of the use and surrounding neighborhood context.
- 7.2.FF.5** No more than two (2) driveways shall be permitted.
- 7.2.FF.6** No driveway shall be located within fifteen (15) feet of an adjacent property line unless it is a shared driveway.

- 7.2.GG** **SOCIAL INSTITUTIONS II**
- 7.2.GG.1** All buildings and structures shall be designed, constructed and maintained to be compatible with the character of the surrounding neighborhood.
- 7.2.GG.2** All new buildings and facilities shall be in full compliance with all applicable requirements of the Americans with Disabilities Act.
- 7.2.HH** **PUBLIC BUILDINGS & RELATED FACILITIES I**
- 7.2.HH.1** All new buildings and facilities shall be in full compliance with all applicable requirements of the Americans with Disabilities Act.
- 7.2.HH.2** Trails for public use shall be sited to minimize negative impacts on nearby residences and public gathering areas. Trails shall also be designed to avoid disturbance of habitat for threatened or endangered species.
- 7.2.II** **UTILITY AND PUBLIC SERVICE I – LIGHT**
- 7.2.II.1** Utility and public service I uses require Buffer Type D.
- 7.2.II.2** The location of a proposed communication tower shall not be approved unless the Zoning Administrator determines that the communications equipment planned for the proposed tower cannot be accommodated on an existing or approved tower or building located within the applicant's search radius of the proposed tower due to one or more of the following reasons:
- a. The planned equipment would exceed the structural capacity of the existing or approved tower or building, as documented by a qualified and licensed professional engineer, and the existing or approved tower cannot be reinforced, modified, or replaced to accommodate planned or equivalent equipment at a reasonable cost.
 - b. The planned equipment would cause interference materially impacting the usability of other existing or planned equipment at the tower or building as documented by a qualified and license professional engineer and the interference cannot be prevented at a reasonable cost.
 - c. Existing or approved towers and buildings within the search area cannot accommodate the planned equipment at a height necessary to provide reasonable coverage and/or capacity as documented by a qualified and licensed professional engineer.
 - d. Other reasons that make it infeasible to locate the planned equipment upon an existing or approved tower or building, including but not limited to documented proof that the owner of such tower or building will not lease space to the applicant, that there is insufficient ground, building, roof or tower area on which equipment may be installed, existing towers or buildings would not provide required setback distances, etc.
- 7.2.II.3** Subject to the setback and other requirements of this Ordinance, a communication tower shall be located on a parcel of land so as to provide a fall

zone of not less than one hundred ten percent (110%) of the height in the tower to any lot line. This fall zone shall be maintained throughout the existence of the communication tower. No land division shall be approved which would violate this provision.

7.2.II.4 Communication towers shall be of a monopole or self-supporting lattice design, unless the Planning Commission finds that an alternative design will not adversely impact the surrounding area.

7.2.II.5 Proposed wireless telecommunication towers of the guyed or self-supporting lattice type shall be structurally designed to accommodate both the applicant's antennas and comparable antennas for at least two additional users. Proposed monopole wireless telecommunication towers shall be structurally designed to accommodate both the applicant's antennas and comparable antennas for at least one additional user. All towers must be designed to allow for future rearrangement of antennas upon the tower and to accept antennas mounted at varying heights.

7.2.II.6 The base of the tower and wire/cable supports shall be fenced with a minimum six foot (6') climb resistant fence.

7.2.II.7 Discontinuance and Abandonment: The holder of a Special Land Use Permit for a wireless telecommunications tower shall remove all discontinued communication towers and give notice of discontinuance of use of a tower within ninety (90) days of the date that the use of the tower ceases. If at any time the use of the tower is discontinued for more than three-hundred sixty-five (365) consecutive days, the Zoning Administrator may declare the tower abandoned. Notice of abandonment shall be sent by first-class mail to the applicant instructing the applicant that the tower must either be reactivated or dismantled and removed from the site within one-hundred twenty (120) days of the date the notice is sent to the applicant. If reactivation or dismantling and removal of the tower does not occur, the Township may contract to remove the tower and assess all cost on the property taxes of the owner of the tower or file a lawsuit to collect the costs plus reasonable attorney fees.

7.2.JJ UTILITY & PUBLIC SERVICE III

Buried 345 kv or larger electric transmission lines shall be within a right-of-way or easement which is at least six hundred (600) feet from any residential district, existing dwelling, or public gathering place.

7.2.KK UTILITY & PUBLIC SERVICE VII, VIII, AND IX

7.2.KK.1 The site plan of the property shall show the location of overhead electrical transmission or distribution lines, whether utilized or not, and the location of the WECS with its specific dimensions, including the entire area through which the rotor(s) may pass, the location of any guy wires or other support devices, and the

location of all public road rights-of-way and occupied buildings within three-hundred (300) feet of the WECS.

7.2.KK.2

Each application shall be accompanied by a complete set (either the original or an accurately reproduced copy) of the manufacturer's wind system specifications which shall, at a minimum, include all the following:

- a. A standard foundation and anchor design or specifications for normal soil conditions;
- b. Tower blueprint or drawing;
- c. A detailed parts list;
- d. Clearly written detailed instructions for the assembly, installation, check-out, operation and maintenance of the WECS on site;
- e. The list of warning labels required by this section;
- f. Grounding and lightning procedures protection which follow the National Electrical Code Articles 250 (Grounding) and 280 (Lightning Arresters) or any subsequent, superceding regulations;
- g. Underwriters label;
- h. Proof of insurance;
- i. Analysis of minimum, mean, and maximum noise analysis at each property line;
- j. Analysis of ice throw under minimum, mean, and maximum wind conditions.
- k. The entire WECS (including turbines, alternators, generators, and interconnect systems) shall be filtered and/or shielded to prevent the emission of generated radio frequency energy which would cause any interference with radio, and/or television broadcasting or reception) shall comply with Federal Communication Rules, 47 CFR Parts 15 (including subparts A and F) and 18 (including subparts A, D, and H) or any subsequent, superceding regulations.

7.2.KK.3

The WECS shall bear an approval certificate from a certification program recognized by the American Wind Energy Association. The applicant shall demonstrate that all components of the proposed wind turbine meets all applicable safety standards and is UL certified.

7.2.KK.4

The WECS shall meet all applicable building code requirements.

7.2.KK.5

The WECS shall not cause human detectible vibrations at the property line.

7.2.KK.6

No WECS shall be erected such that any portion of the tower or turbine is closer to utility lines or property lines than the total distance equal to the height of the tower and rotor combined. If the ice throw distance is greater than this distance, and if there are any principal or accessory structures within reach of ice throws, then the WECS location shall be adjusted to prevent ice throw impact on all abutting property. The lowest point of the arc created by rotating blades shall be at least fifteen (15) feet above ground level. No part of the WECS, including guy wires, shall extend into any required setback areas (not including water setback areas).

- 7.2.KK.7** The following information shall be provided on labels attached to the WECS tower subsystem in a visible, easily accessible location:
- a. Equipment weight of the tower subsystem;
 - b. Manufacturer's name and address;
 - c. Model and Serial number;
 - d. The following tower warning label or equivalent warning, "Installation and maintenance of this product near power lines is a danger. For your safety follow the installation and maintenance instructions."
- 7.2.KK.8** WECS shall be sited and constructed of materials which use the best available technology at the time, with special consideration to minimizing noise and threats to birds and bats.
- 7.2.KK.9** A small WECS shall not be artificially lighted unless such lighting is required by the Federal Aviation Administration.
- 7.2.KK.10** A WECS that is inoperable and has not functioned for at least six (6) months shall be deemed to have been abandoned and the Zoning Administrator may order the removal of the turbine and tower at the owner's expense.
- 7.2.KK.11** An anemometer shall be subject to the minimum requirements that correspond to the WECS that is proposed to be constructed on the site.
- 7.2.LL** **INSTITUTIONS FOR HUMAN CARE & HABITATION**
- 7.2.LL.1** All buildings and structures shall be designed, constructed and maintained to be compatible with the character of the surrounding neighborhood.
- 7.2.LL.2** All new buildings and facilities shall be in full compliance with all applicable requirements of the Americans with Disabilities Act.
- 7.2.LL.3** Adequate provision shall be made for access by emergency medical and fire vehicles.
- 7.2.MM** **COMMUNITY RESIDENTIAL CARE FACILITIES**
- 7.2.MM.1** All buildings and structures shall be designed, constructed and maintained to be compatible with the character of the surrounding neighborhood.
- 7.2.MM.2** Prior to the issuance of any permit to operate, and no later than December 31 of each subsequent year, the applicant or operator shall submit to the Zoning Administrator a photocopy of a valid and current license issued by the State of Michigan. Proof of such licensing shall be required prior to the opening, and as a condition for the continued operation.
- 7.2.MM.3** Safe areas for pick-up and discharge of users shall be provided that do not interfere with the free flow of traffic on adjacent streets. Accessible routes shall be provided from the pick-up/discharge areas to the facility.
- 7.2.MM.4** All facilities shall be in full compliance with all applicable requirements of the Americans with Disabilities Act.

- 7.2.MM.5** Adequate provision shall be made for access by emergency medical and fire vehicles.
- 7.2.NN** **GROUP HOUSING**
- 7.2.NN.1** All buildings and structures shall be designed, constructed and maintained to be compatible with the character of the surrounding neighborhood.
- 7.2.NN.2** Safe areas for pick-up and discharge of users shall be provided that do not interfere with the free flow of traffic on adjacent streets. Accessible routes shall be provided from the pick-up/discharge areas to the facility.
- 7.2.NN.3** All facilities shall be in full compliance with all applicable requirements of the Americans with Disabilities Act.
- 7.2.NN.4** Adequate provision shall be made for access by emergency medical and fire vehicles.
- 7.2.OO** **MOBILE HOME PARK & MANUFACTURED HOUSING COMMUNITY**
- 7.2.OO.1** All mobile home parks shall conform to P.A. 96 of 1987, as amended.
- 7.2.OO.2** Mobile home parks and manufactured housing communities require Buffer Type D.
- 7.2.OO.3** Minimum lot size for the development is ten (10) acres.
- 7.2.OO.4** Each mobile home lot shall be a minimum of five-thousand (5,000) square feet.
- 7.2.OO.5** Each mobile home lot shall have a minimum lot width of fifty (50) feet, provided however, minimum lot width may be reduced along cul-de-sacs.
- 7.2.OO.6** Each mobile home lot shall have a maximum lot coverage (structures) of twenty (20) percent.
- 7.2.OO.7** Minimum setback from the boundary line for the development is fifty (50) feet.
- 7.2.OO.8** All mobile homes shall be readily accessible from a street.
- 7.2.PP** **MULTIPLE FAMILY DWELLINGS**
- 7.2.PP.1** Multiple family dwelling developments require Buffer Type D.
- 7.2.PP.2** Multiple family developments of more than ten (10) units shall include common open space for the use of residents in the amount of nine-hundred (900) square feet per dwelling unit. This requirement may be waived if all units are within one-thousand (1,000) feet of a public park or trail system.
- 7.2.QQ** **ACCESSORY DWELLING UNITS II – DETACHED**
- Only one (1) accessory dwelling unit is permitted per lot.
- 7.2.RR** **MIXED-USE DEVELOPMENT I**
- 7.2.RR.1** Mixed-use developments I require Buffer Type D.
- 7.2.RR.2** No more than two (2) driveways shall be permitted.

7.2.RR.3 No driveway shall be located within fifteen (15) feet of an adjacent property line unless it is a shared driveway.

7.2.SS MIXED-USE DEVELOPMENT III & IV – HOME OCCUPATIONS

7.2.TT.1 *PURPOSE AND INTENT*

Two classes of home occupations are established based on the type and intensity of the home occupation. Accordingly, minimum standards have been established for each class of home occupation in order to assure compatibility of home occupations with other uses permitted in the applicable district, and to preserve the character of residential neighborhoods.

7.2.TT.2 *APPLICABILITY*

Home occupations shall not be permitted except in compliance with this section and other applicable laws.

7.2.TT.3 *APPROVAL & ENFORCEMENT*

a. APPROVAL

- (i) Approval of a Home Occupation is not transferable to a location other than that which was approved.
- (ii) The Home Occupation permit and use shall terminate automatically when the applicant no longer resides in the dwelling unit.
- (iii) If the resident applicant is other than the owner of the property, the owner must authorize the application.

b. ENFORCEMENT

- (i) Acceptance by the applicant of a permit constitutes consent and permission for appropriate Portage Township officials to enter upon applicant's land for the purpose of determining and verifying compliance with the permit. All home occupations are subject to periodic unannounced inspection by such officials during reasonable business hours to ensure compliance with ordinance requirements. A person who hinders, obstructs, or otherwise prevents an inspection is in violation of the Portage Township Zoning Ordinance.
- (ii) Permits for a home occupation may be revoked at any time for any of the following reasons:
 - 1. Nonconformance with the requirements of this Ordinance and/or a permit issued thereunder; or
 - 2. Evidence that the permit was obtained by misrepresentation or fraud; or
 - 3. The use is in violation of any statute, ordinance, law, or regulation.
- (iii) Upon receipt of a complaint about a home occupation, enforcement actions may include the following:
 - 1. Visit the site to verify the alleged violation.

2. If a violation is identified, the permit holder for the home occupation shall be informed, in writing, of the nature of the violation, the action necessary to correct the violation, and the date of required compliance.
 3. The site of the alleged violation shall be re-inspected after the date of required compliance.
 4. If compliance is not evident, the Township Attorney shall be informed to determine further action per Ordinance provisions.
- (iv) In the event the Zoning Administrator believes the holder of a Zoning Compliance Permit or Conditional Use Permit for a Home Occupation has failed to comply with one or more of the terms or conditions of the permit or of this Ordinance, the Planning Commission may schedule a public hearing to consider the revocation of the permit according to the requirements for public notice and public hearings in this Ordinance. The notice of hearing shall include a written statement of the reasons for the possible revocation. If the Planning Commission decides to revoke the permit, the use for which the permit was granted must cease within thirty (30) days of the hearing date. Failure to terminate the use for which the permit was revoked within thirty (30) days is declared to be a nuisance per se and a violation of this Ordinance.

7.2.TT.4 *REGULATIONS APPLICABLE TO ALL HOME OCCUPATIONS*

- a. **EXTERIOR APPEARANCE**
There shall be no evidence of the conduct of a home occupation when viewed from the street right-of-way or from an adjacent lot, and no change in exterior appearance of the dwelling unit except that a sign a maximum of four (4) square feet is permitted.
- b. **OPERATIONAL IMPACTS**
 - (i) No equipment, process, or activity shall be used in a home occupation which creates glare, fumes, odor, vibration, noise, electrical interference, or fluctuation in voltage which is detectable to the normal senses from the street right-of-way or from an adjacent lot.
 - (ii) To protect the integrity of the water supply and natural environment of the residential neighborhood, no home occupation shall involve the generation of any hazardous waste except this provision shall not apply to material purchased retail over the counter for household cleaning, lawn care, operation of a photocopy machine, painting, printing, art and craft supplies, or heating fuel.
- c. In all cases, the Zoning Administrator or Planning Commission may impose reasonable conditions considered necessary to protect the general health, safety, and welfare, or to protect against a possible nuisance condition.

7.2.TT.5 *REGULATIONS APPLICABLE TO TYPE 1 HOME OCCUPATIONS*

- a. Type 1 Home Occupations involve on-premise interaction with customers only on an infrequent basis, such as pick-up of a custom order item. Home occupations with daily traffic should be categorized as Type 2 Home Occupations.
- b. Type 1 home occupations shall have no more than one (1) non-resident employee.
- c. No retail sales shall be conducted on the premises.
 - (i) Type 1 home occupations shall not occupy a space larger than twenty-five (25) percent of the combined area of the residential primary and accessory structures.
 - (ii) All work areas and activities associated with the Type 1 home occupation shall be located either inside the dwelling or in an accessory building.
 - (iii) Type 1 home occupations have no outdoor storage or display of products, equipment, or merchandise other than of a type and quantity characteristically found at a single-family residence.
- d. Type 1 Home Occupations may be permitted in single-family dwellings, two-family dwellings, and multiple family dwellings depending on the circumstances.
- e. The following are examples of uses which may be classified as a Type 1 Home Occupation based on individual circumstances:
 - (i) Telephone answering and solicitation
 - (ii) Home crafts
 - (iii) Computer programming and desktop publishing
 - (iv) Typing or secretarial service
 - (v) Fine arts and writing
 - (vi) Dressmaking, sewing, or tailoring
 - (vii) Consulting services
 - (viii) Mail order businesses
 - (ix) Home Offices

7.2.TT.6 *REGULATIONS APPLICABLE TO TYPE 2 HOME OCCUPATIONS*

- a. Type 2 Home Occupations may involve limited daily on-premise interaction with customers provided all other standards are met.
- b. Type 2 home occupations may have up to two (2) non-resident employees.
 - (i) Type 2 home occupations may occupy a space larger than twenty-five (25) percent of the combined area of the residential primary and accessory structures.
 - (ii) Type 2 home occupations may have some outdoor storage or display of products, equipment, or merchandise other than of a type and quantity characteristically found at a single-family residence provided the materials are screened from view of adjacent streets and properties by a fence meeting the requirements of Section 3.7.

- c. Retail sales are permitted only as an accessory use to the primary home occupation (distributed only to clients of the home occupation), and such retail sales shall not be advertised.
- d. The Home Occupation shall provide a minimum of two (2) off-street parking spaces in addition to those required for the dwelling unit for use by patrons of the Home Occupation. The Planning Commission or Zoning Administrator may require additional off-street parking based upon the use and location of the property.
- e. Type 2 Home Occupations shall only be conducted on the premises of single-family dwellings, and are prohibited in two-family or multiple family dwellings.
- f. In addition to the special use standards of Article 7, the Planning Commission shall consider the zoning district; size of lot; distance to adjacent land uses; screening and buffering; and frequency, scale, and intensity of non-residential activity in determining potential impacts in the review and approval process.
- g. The following are examples of uses which may be classified as a Type 2 Home Occupation requiring Zoning Administrator review based on individual circumstances:
 - (i) Carpentry, cabinet makers
 - (ii) Catering or food preparation
 - (iii) Pet grooming service
 - (iv) Barber or Beauty shop, nail or personal care salon
 - (v) Electronic or equipment repair

7.2.TT ACCESSORY NON-RESIDENTIAL I – OUTDOOR DISPLAY & SALES AREAS

- 7.2.TT.1** The accessory outdoor display and sales area shall not exceed an area equal to one-quarter (1/4) of the gross floor area of the principal use.
- 7.2.TT.2** These areas shall be setback a minimum of twenty-five (25) feet from any property line.
- 7.2.TT.3** No outdoor display and sales area shall be permitted in areas that are set aside or required for driving aisles, driveways, maneuvering areas, emergency access, off-street parking, or unloading/loading areas.

7.2.UU ACCESSORY NON-RESIDENTIAL II – OUTDOOR FOOD & BEVERAGE SERVICE

- 7.2.UU.1** Any area proposed to be used for outdoor food and beverage service shall be accurately delineated on the plan or application, including detail of the locations and sizes for all proposed furnishings such as tables, chairs, trash containers, umbrellas, awnings, planters, landscaping, and lighting.
- 7.2.UU.2** All activities and furnishings shall be located a minimum of twenty-five (25) feet from an intersection and at least two (2) feet from the curb.

- 7.2.UU.3** All furnishings shall be removed whenever outdoor dining is not in seasonal operation.
- 7.2.UU.4** At no time should trash or debris or accessories be blown, swept, or otherwise deposited into the street or an adjacent property.
- 7.2.UU.5** Outdoor service is prohibited between 11 p.m. and 7 a.m.
- 7.2.VV** **ACCESSORY NON-RESIDENTIAL III – OUTDOOR STORAGE**
Outdoor storage areas require Buffer Type D.
- 7.2.WW** **ACCESSORY NON-RESIDENTIAL IV – TRANSIENT AMUSEMENT ENTERPRISES**
- 7.2.WW.1** Transient amusement enterprises shall be permitted only upon a finding that the location will not adversely affect adjacent properties or the public health, safety, or welfare.
- 7.2.WW.2** The Planning Commission may require a performance bond or other security in an amount sufficient to hold the Township free of all liabilities incidental to the operation and indemnify adjacent land owners for any damage resulting from the operation of such activity.

SECTION 7.3 PROVISIONS FOR NONCONFORMING LOTS, STRUCTURES & USES

7.3.A INTENT & PURPOSE

It is the intent of this Section to permit legal nonconforming lots, structures, or uses to continue until they are removed or terminated, but not to encourage their survival.

7.3.B APPLICABILITY

7.3.B.1 *LEGAL NONCONFORMING*

An existing lot, structure, building, development, or use of an existing lot or structure is deemed nonconforming when it fails to conform to one or more of the regulations currently applicable to the zoning district in which the lot, structure, building, development, or use is located, but which was conforming (lawful) prior to the enactment of this Ordinance and became non-conforming on the effective date of adoption of this Ordinance, or an Ordinance text amendment or rezoning. The provisions of this Section shall also apply to any existing uses that become nonconforming as a result of zoning district boundary changes.

7.3.B.2 *ILLEGAL NONCONFORMING*

Nonconforming uses of structures or land existing at the effective date of this Ordinance that were established without zoning approval or without a valid building permit, or those nonconforming uses which cannot be proved conclusively as existing prior to the effective date of this Ordinance, shall be declared illegal nonconforming uses and are not entitled to the status and rights accorded legally established nonconforming uses. This also includes lots or parcels established without zoning approval after the effective date of this Ordinance that are substandard in area, width, or depth and are not entitled to the status and rights accorded legally established nonconforming lots.

7.3.C NONCONFORMING LOTS

7.3.C.1 In any District permitting residences, a single-family detached dwelling and its accessory structures may be erected on any legal lot or parcel of record that was recorded in the office of the County Register of Deeds before the effective date of this Ordinance, or before an amendment to this Ordinance, which made the lot nonconforming, provided such lots meet the requirements of Sections 7.3.C.2 and 7.3.C.3 below. No use of any nonconforming lot of record which was divided after the effective date of this Ordinance shall be permitted which created a lot with a width, depth, or area less than the requirements stated in this Ordinance.

7.3.C.2 Where two or more vacant nonconforming lots were in common ownership on the effective date of this Ordinance, and have remained in common ownership since then, and were contiguous to one another alongside lot lines, such lots shall be considered as a single lot of record for purposes of this Ordinance, and no portion of said parcel shall be used in a manner which diminishes compliance with lot width and area requirements established by this Ordinance, nor shall they be transferred or sold except in blocks that equal the original ownership interest, or

in a combination of lots that meets the minimum requirements of the District in which they are located.

- 7.3.C.3** Provided that adequate potable water and proper and safe septic disposal can be provided as determined by the District Health Department, the Zoning Administrator shall permit single lots of record or combinations of single lots of record (those in Section 7.3.C.2 above) that are nonconforming because they are substandard in area, width, or depth to be built on without variances provided the requirements for yards, width, depth, and area is no less than seventy-five (75%) percent of that required by the terms of this Ordinance.

7.3.D NONCONFORMING STRUCTURES

Where a lawful structure exists at the effective date of adoption or amendment of this Ordinance that could not be built under the terms of this Ordinance by reason of restrictions on area, lot coverage, height, yards, or other characteristics of the structure or location on the lot, such structure may continue so long as it remains otherwise lawful, subject to the following provisions:

- 7.3.D.4** No such structure may be enlarged or altered in a way which increases its nonconformity, but the use of a structure and/or the structure itself may be changed or altered to a use permitted in the District in which it is located, provided that all such changes are also in conformance with the requirements of the District in which it is located.
- 7.3.D.5** A nonconforming use may be extended throughout any parts of a building which were manifestly arranged or designed for such use and which existed at the time for adoption or amendment of this Section, but no such use shall be extended to occupy any land outside such building.
- 7.3.D.6** Should such structure be destroyed by any means it shall not be reconstructed except in conformity with the provisions of this Ordinance, unless it is impractical to do so, in which case it shall be rebuilt on not more than the building footprint at the time of destruction.
- 7.3.D.7** Should such structure be moved for any reason for any distance on the same or a different lot or parcel, it shall thereafter conform to the regulations for the District in which it is located after it is moved.
- 7.3.D.8** Any structure, or structure and land in combination, in which a nonconforming use is superseded by a permitted use shall thereafter conform to the regulations for the District in which such structure is located and the nonconforming use may not thereafter be resumed.

7.3.E NONCONFORMING USES

Where, at the effective date of adoption or amendment of this Ordinance, lawful use of land exists that is made no longer permissible under the terms of this Ordinance as enacted or amended, such use may be continued in the same manner and to the same extent as it existed when it became nonconforming, and so long as it remains otherwise lawful, subject to the following provisions:

7.3.E.9 No such nonconforming use shall be enlarged or increased nor extended to occupy a greater area of land, nor a greater height, than was occupied at the effective date of adoption or amendment of this Ordinance.

7.3.E.10 No such nonconforming use shall be moved in whole or in part to any other portion of the lot or parcel occupied by such use at the effective date of adoption or amendment of this Section, nor to any other lot or parcel, unless reestablished in conformance with the requirements of this Ordinance.

7.3.F REPAIRS AND MAINTENANCE

On any building devoted in whole or in part to any nonconforming use, work may be done in any period of twelve (12) consecutive months on ordinary repairs or on repair or replacement of nonbearing walls, fixtures, wiring, or plumbing to an extent not exceeding fifty (50) percent of the assessed value of the building, provided that the cubic content of the building as it existed at the time of passage of this Ordinance or an amendment to it shall not be increased. Nothing in this Section shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by any official charged with protecting the public safety upon order of such official.

7.3.G CHANGE OF TENANCY OR OWNERSHIP

A nonconforming building, structure, use, or lot may be sold or a tenant may change with the nonconforming use right intact, provided that the physical dimensions of the nonconforming lot or the use of the nonconforming structure or lot do not result in a change contrary to the requirements of this Section.

7.3.H CHANGE OF STATUS

In the event that any nonconforming use of land or use of a structure is occupied at any time during the nonconforming status by a conforming use, the nonconforming status shall discontinue. Any subsequent use shall conform to the uses permitted in the District in which the premises are located. Vacancy of the property alone does not discontinue nonconforming status.

7.3.I ELIMINATION OF NONCONFORMING USES

Property owners are strongly encouraged to make changes to their property over time, which bring it into conformance with this Ordinance. The Township may eliminate any and all nonconforming uses it deems necessary to advance the public health and safety interests of the citizens of the Township by whatever means are provided by law in such cases.

ARTICLE 8 ZONING ADMINISTRATION

This Article sets forth the provisions and requirements for submittal, review, and approval of applications and for Ordinance enforcement. These provisions are intended to clarify administrative duties and procedures; inform citizens and property owners; and ensure efficiency and consistency in administering and enforcing the Ordinance.

SECTION 8.1 DUTIES

The provisions of this Ordinance shall be administered by the Township Board, Planning Commission, Zoning Administrator, Zoning Board of Appeals, and Attorney in accordance with the *Michigan Zoning Enabling Act, Public Act 110 of 2006, as amended; the Open Meetings Act, Public Act 267 of 1976, MCL 15.261 to MCL 15.275, as amended; the Freedom of Information Act, Public Act 442 of 1976, MCL 15.231 to 15.246, as amended*; any duly adopted Township rules and guidelines, and the delegation of responsibility assigned by this Ordinance.

8.1.A PLANNING COMMISSION

The duties of the Planning Commission are listed in the Portage Township Planning Commission Ordinance and the Planning Commission By-Laws.

8.1.B ZONING ADMINISTRATOR

8.1.B.1 PROVISIONS PERTAINING TO ZONING ADMINISTRATOR EMPLOYMENT

- a. The Township Board shall employ a Zoning Administrator to act as its officer to effect the proper and consistent administration and enforcement of this Ordinance. The terms of employment and rate of compensation shall be established by the Township Board.
- b. The Zoning Administrator, officer, or employee charged with the enforcement of this Ordinance, while lawfully acting for the Township, shall not thereby render himself or herself liable personally, and he or she is hereby relieved from all personal liability for any damage that may accrue to persons or property as a result of any lawful act required or permitted in the discharge of his or her official duties. Any suit instituted against the Zoning Administrator, or any officer or employee acting on behalf of the office of the Zoning Administrator, because of a lawful act performed by the employee in the lawful discharge of his or her duties and under the provisions of the Ordinance shall be defended by the Township Attorney, or other legal representative of the Township, until the final termination of the proceedings. In no case shall the Zoning Administrator or any of his or her subordinates be liable for costs in any action, suit or proceeding that may be instituted in pursuance of the provisions of the Ordinance; and the Zoning Administrator, any officer or employee acting on behalf of the Zoning Administrator acting in good faith and without malice, shall be free from liability

for lawful acts performed under any of its provisions or by reason of any act or omission in the lawful performance of his or her official duties in connection herewith.

8.1.B.2 *PROVISIONS PERTAINING TO ZONING ADMINISTRATOR DUTIES*

It shall be the responsibility of the Zoning Administrator, and any other employee charged with the enforcement of this Ordinance, to be thoroughly versed in the provisions of this Ordinance and to enforce the provisions of this Ordinance. The Zoning Administrator shall have all administrative powers in connection with the administration of the Ordinance which are not specifically assigned to some other officer or body. The Zoning Administrator or his or her deputized agents shall have the power of a police officer, whose jurisdiction is the enforcement of the Ordinance. The Zoning Administrator shall have no power to vary or waive Ordinance requirements.

8.1.B.3 *REQUIRED DUTIES*

The Zoning Administrator or other deputized agent shall, among other responsibilities, be empowered to perform the following duties:

- (i) Attend Planning Commission, Zoning Board of Appeals, and such other meetings related to administration of this Ordinance as necessary or when requested.
- (ii) Assist citizens in determining which forms and procedures apply to proposed zoning and development requests, and aid them in completing the required application forms. Help citizens with an alternate procedure if the request is not in compliance.
- (iii) Receive and review all permit application forms to determine level of completion and level of compliance with the provisions of the Ordinance.
- (iv) Review all requests for administrative or legislative action and forward an analysis of site factors and other information pertaining to the request to the appropriate body. The analysis may include a recommendation for action.
- (v) Issue the appropriate permits provided the request complies with all applicable provisions of this Ordinance and has met approval of the appropriate authority. The issuance of permits includes the authority to impose any condition authorized by this Ordinance. For permits requiring Planning Commission approval, the Zoning Administrator shall refer all complete applications to that body for review.
- (vi) Maintain files and records of all zoning applications and permit approvals and denials. Such files and records shall be open to public inspection. Copies shall be furnished upon request at a cost established by the Township Board.
- (vii) Make as many inspections of buildings or premises as necessary in order to properly carry out the enforcement of this Ordinance or any permit or condition

of a permit or order under this Ordinance. At a minimum the property shall be inspected upon staking for any building and prior to occupancy.

- (viii) Identify, monitor, and control changes in nonconforming uses.
- (ix) Enforce the Zoning Ordinance to ensure conformance with issued permits, investigate alleged Ordinance violations including the conditions of permits or approvals, issue tickets and violation notices, appear in court or other jurisdictional proceedings, and undertake such other enforcement activities as may be delegated by the Township Board or Township Planning Commission. Once a case is shifted to the Township Attorney or other legal representative retained for such purpose, the Zoning Administrator and Township Attorney shall share enforcement responsibility.
- (x) Issue violation notices and appearance summons, and work with the Township Attorney to seek the issuance of warrants for the arrest of alleged violators, or to enforce appropriate civil action for violation.
- (xi) Keep a record of every complaint of a violation of any of the provisions of this Ordinance as a public record.
- (xii) Report to Township Board on behalf of the Planning Commission periodically, including an annual report. The annual report shall summarize the number of requests for zoning approval or enforcement, including the number of requests approved, approved with conditions, and denied, by type of request, including, zoning text changes, rezonings, conditional rezonings, zoning permits, conditional use permits, special use permits, all minor design modifications, administrative waivers, all complaints of violations, all interpretations made, and appeals and variances granted by the Zoning Board of Appeals. The Zoning Administrator shall include any recommendations regarding zoning changes or proposed amendments which would improve the content and/or enforcement of the Zoning Ordinance.
- (xiii) Maintain records for each decision, waiver, interpretation, or enforcement action made under this Ordinance, organized by parcel number and referenced by decision type to help ensure consistency of future decisions.
- (xiv) Prepare forms, manuals and guidelines with the assistance of the Planning Commission for administration of the Zoning Ordinance. All such forms, manuals and guidelines shall be approved by the Township Board before implementation.

8.1.C *ZONING BOARD OF APPEALS*

It is the intent that all questions of interpretation and enforcement of the Ordinance shall first be presented to the Zoning Administrator, and that such questions shall be presented to the Zoning Board of Appeals (ZBA) only on appeal from the decision of the Zoning Administrator, and that recourse from the decisions of the ZBA shall be to the Circuit Court as provided by law. The ZBA

shall perform its duties and exercise its powers so that the health, safety and welfare of the public may be secured; and that substantial justice be done.

8.1.C.1 *PROVISIONS PERTAINING TO ZONING BOARD OF APPEALS MEMBERSHIP*

The ZBA shall consist of three (3) regular members and two (2) alternate members appointed by the Township Supervisor and approved by a majority vote of the members of the Township Board. One regular member shall be a member of the Township Board, and one regular member shall be a member of the Township Planning Commission, however, neither of these members shall serve as Chairperson.

a. **QUALIFICATIONS**

To be a member and remain a member of the ZBA, the individual shall meet the following qualifications:

- (i) Shall be a qualified elector of Portage Township and shall reside within Portage Township;
- (ii) Shall be representative of the population distribution and of the various interests present in Portage Township.
- (iii) An employee or contractor of the legislative body may not serve as a member of the ZBA.

b. **TERMS**

- (i) Members shall be appointed to three-year terms such that, as nearly as possible, the terms of one-third of all commission members will expire each year, except that the term of the Township Board or Township Planning Commission members shall coincide with their term of office or time serving on that other body.
- (ii) A successor shall be appointed not more than one month after the term of the preceding member has expired.
- (iii) A vacancy shall be filled for the remainder of an unexpired term in the same manner as the original appointment such that, as nearly as possible, the terms of one-third of all Board members continue to expire each year.

8.1.C.2 *PROVISIONS PERTAINING TO ZONING BOARD OF APPEALS PROCESS*

The Board of Appeals shall select a Chairperson and a Vice-Chairperson from among the membership.

c. **ALTERNATE MEMBERS**

An alternate member may be called to serve as a member of the ZBA in the absence of a regular member if the regular member will be unable to attend one or more meetings. An alternate member may also be called to serve as a member for the purpose of reaching a decision on a case in which the member has abstained for reasons of conflict of interest. The alternate member appointed shall serve in the case until a final decision is made. An alternate member serving on the ZBA has the same voting rights as a regular member.

d. ATTENDANCE

Members shall be expected to notify the Chairperson or Zoning Administrator of their expected absence prior to a meeting. For an alternate to be called, the regular member must notify the Zoning Administrator at least three (3) days prior to the meeting which he/she cannot attend. The Zoning Administrator shall request that an alternate member attend the meeting.

e. MEETINGS

Meetings of the ZBA shall be held at the call of the Chair, and at other times as the Board in its rules of procedure may specify. There shall be a fixed place for each meeting, and all meetings shall be open to the public.

f. CONDUCTING BUSINESS

A ZBA shall not conduct business unless a majority of the regular members are present.

g. VOTING

(i) All members of the ZBA present at a meeting shall vote on every matter unless a member of the Board has a conflict of interest. A member of the ZBA shall abstain from a vote in which the member has a conflict of interest, and the member shall state the nature of the conflict of interest prior to participating in a hearing on the matter.

(ii) The concurring vote of a majority of all the members of the ZBA 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 a matter upon which they are required to pass under the Zoning Ordinance, or to grant a variance in the Zoning Ordinance.

(iii) A member of the ZBA who is also a member of the Township Board or Planning Commission shall not participate in a public hearing on or vote on the same matter that the member voted on as a member of the Township Board or Planning Commission. However, the member may consider and vote on other unrelated matters involving the same property.

h. KEEPING OF RECORDS

(i) Minutes of all meetings shall be recorded, and shall contain the grounds of every determination made by the ZBA including all evidence and data considered, all findings of fact and conclusions drawn by the Board for every case, together with the votes of the members and final disposition of each case. Such minutes shall be filed in the Office of the Zoning Administrator, and shall be available to the public. The record of proceedings shall be contained in a file with the following information:

1. Letter from Zoning Administrator granting or denying the application or referring it to the ZBA, and all other relevant records related to the case, including reports, plans, surveys, or photos.
2. The application (for a permit, variance, interpretation, exception).

3. Notice of public hearing in newspaper and record of notifications mailed to other parties.
 4. Affidavit of publication of notice of hearing.
 5. Record of testimony heard and evidence presented.
 6. A copy of the zoning Article(s) and Section(s) in question.
 7. Briefs, correspondence, or other communications made to or from the ZBA, including any from the Township Attorney or other attorneys.
 8. Findings of fact regarding the request including any information gained from personal inspection.
 9. Decision of the Board as specifically related to the findings of fact.
 10. A copy of any other correspondence to the appellant regarding the request.
- (ii) At its discretion, the ZBA may file its decision relative to a particular property with the Register of Deeds to run as a permanent record with the property which was the subject of the decision by the ZBA.
- i. **REMOVAL FROM OFFICE AND CONFLICT OF INTEREST**
- (i) The Township Board may remove a ZBA member for nonfeasance, including nonperformance of duty, or misfeasance, including misconduct in office, or for malfeasance upon written charges and after public hearing.
- (ii) A member shall disqualify himself or herself from a vote in which the member has a conflict of interest. Failure to do so shall constitute malfeasance in office. A conflict of interest may include, but is not limited to considering property or adjoining property a ZBA member owns or has a legal or financial interest in, or considering a request by a party with whom a Board member has close ties, such a family member, relative or close friend.
- j. **COMPENSATION**
- Compensation of ZBA members shall be at the discretion of the Township Board, and may include a reasonable per diem and reimbursement for expenses actually incurred in the discharge of duties.

8.1.C.3 *SCOPE OF POWERS ZONING BOARD OF APPEALS*

- a. The ZBA may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination as in its opinion ought to be made, and to that end, shall have all the powers of the office or body from whom the appeal was taken, but no more. The ZBA may issue or direct the issuance of a permit if, following a review of the facts, the relevant Ordinance requirements, and the prior decision of the Zoning Administrator or Planning Commission, the ZBA concludes the Ordinance requirements were not properly applied. The ZBA shall have the power to make final determinations, within its jurisdiction and duties herein prescribed, in such a way that the objectives of this Ordinance may be equitably achieved in order that there shall be uniform interpretation and

flexibility in the enforcement of this Ordinance or to fulfill any other responsibilities bestowed upon the ZBA by this Ordinance. At the same time, the ZBA shall be aware that this responsibility does not extend to creating regulations, only to applying regulations, which is a narrow quasi-judicial responsibility, and not a legislative one. The power to adopt land use regulations rests solely with the Township Board, per the appropriate process. For example, the ZBA shall not have the power to alter or change the zoning district classification of any property or to authorize any use of land not expressly permitted in the district, nor to make any change in the terms or intent of this Ordinance; these powers are reserved to the Township Board.

- b. The ZBA shall have the power to permit the erection and use of a building, or an addition to an existing building, or a public service corporation for essential services, in any permitted district to a greater height or of larger or smaller area than the district requirements herein established, and permit the location in any use district of a public utility building, structure, or use if the Board shall find such use, height, area, building or structure reasonably necessary for the public convenience and service. The ZBA may also impose setbacks, specify the location or character of fences, buffering, or landscaping requirements as a condition of approval pursuant to standards in this Ordinance as may be reasonably necessary to protect abutting property from the potential nuisance effects of such essential services.

8.1.C.4 *PROVISIONS PERTAINING TO ZONING BOARD OF APPEALS DUTIES*

The Zoning Board of Appeals *shall* perform the following duties:

- a. Adopt rules of procedure or Bylaws to govern its actions on such matters as officers, voting, conduct of meetings, and related matters as it may consider necessary or advisable.
- b. Choose a Chairperson, and in his or her absence, an Acting Chairperson who may administer oaths and compel the attendance of witnesses.
- c. Maintain a record of its proceedings which shall be filed in the office of the Township Clerk.
- d. Hear and decide on matters referred to the ZBA upon which the ZBA has been given authority under this Ordinance.
- e. Hear and decide appeals from and review any administrative order, requirement, decision, or determination made by the Zoning Administrator or Planning Commission in enforcing this Ordinance where it is alleged there is error made in the enforcement of the Ordinance.
- f. Interpret, upon request, the provisions of this Ordinance in such a way as to carry out the intent and purpose of this Ordinance.
- g. Make "Lot of Record" determinations.

- h. Review Site Plan Review appeals.
- i. The ZBA may retain legal counsel for any purpose deemed necessary provided that such appointment or retainer shall be approved in advance by the Township Board.

SECTION 8.2 TYPES OF PERMITS

No clearing, grading, excavation, or filling of land for a building or structure shall be commenced; no erection, addition to, alteration of, or moving of any building or structure shall be undertaken, nor shall any land be changed to a different use except in accordance with and pursuant to one of the following permits or approvals.

8.2.A ZONING COMPLIANCE PERMIT

A Zoning Compliance Permit is a document signed by the Zoning Administrator acknowledging that, after having completed the appropriate review and approval process, and been approved for all other applicable permits, a use, structure, building, or lot either complies with or is legally nonconforming to the provisions of this Ordinance, or is an authorized variance or modification. A Zoning Compliance Permit shall be issued before a Building Permit shall be issued. The Zoning Administrator shall perform inspections prior to issuance of a Zoning Compliance Permit, and at such other times as is necessary to ensure conformance with this Ordinance and the conditions of any permit or approval. A Tier 1 application shall be used for all Permitted Uses (P).

8.2.B CONDITIONAL USE PERMIT

A Conditional Use Permit is the documented evidence of authority that a proposed Conditional Use has undergone the proper Tier 2 application and review procedures and can be commenced subject to compliance with all the terms and conditions contained in the permit after having subsequently been issued a Zoning Compliance Permit and any other applicable permits.

8.2.C SPECIAL USE PERMIT

A Special Use Permit is the documented evidence of authority that a proposed Special Use has undergone the proper Tier 3 application and review procedures and can be commenced subject to compliance with all the terms and conditions contained in the permit after having subsequently been issued a Zoning Compliance Permit and any other applicable permits.

8.2.D BUILDING PERMIT

No building permit shall be issued without first having obtained a Zoning Compliance Permit and all other applicable permits. All building permits shall indicate by the signature of the Zoning Administrator that required zoning compliance has been verified. If such verification is not present, the building permit shall not be valid and no construction activity may commence.

SECTION 8.3 APPLICATION PROCESS

The general provisions of this Section shall apply to all applications for development approval and procedures under this Ordinance, unless otherwise stated.

8.3.A AUTHORITY TO FILE APPLICATIONS

Applications shall be submitted to the Zoning Administrator by the owner, or any other person having a recognized interest in the land for which the development is proposed, or their authorized agent. If the applicant is not the owner of the land, or is a contract purchaser of the land, a letter signed by the owner consenting to the submission of the application shall be submitted. If the applicant is not the sole owner of the land, a letter signed by the other owners or an association representing the owners consenting to or joining in the application shall be submitted.

8.3.B APPLICATION CONTENTS

Applications shall be submitted on approved forms and shall also include all other supporting documents as required under this Ordinance. Waivers of information requirements may be granted upon a written finding that the information is not necessary to achieve the purpose and intent of the site plan review requirements specifically and the Ordinance standards generally, and that public health, safety, and general welfare will not be compromised by a waiver. All waivers shall be recorded in a log maintained by the Zoning Administrator listing the applicant, application number, and the information waived.

8.3.B.1 *SUBMISSION REQUIREMENTS FOR A PRE-APPLICATION CONFERENCE (PRELIMINARY SKETCHES)*

Preliminary sketches of proposed site plans may be submitted for review in a pre-application conference with the Zoning Administrator or the Planning Commission prior to submission of Tier 1, Tier 2, or Tier 3 applications for final approval. The Zoning Administrator shall determine the number of plans to be submitted. Sketch plans should include, at minimum, the requirements as identified in *the following sub-sections*.

8.3.B.2 *SUBMISSION REQUIREMENTS FOR TIER 1 REVIEW (APPLICATIONS NOT REQUIRING SITE PLAN REVIEW)*

All applications for a Zoning Compliance Permit shall require the following minimum submissions, unless waived by the Zoning Administrator:

- a. A complete application on an approved form.
- b. Sketch showing location map, property lines, setbacks, bodies of water and North arrow.
- c. Sketch to show shape, area, dimensions and intended use of the premises.
- d. The location and type of sewerage disposal system and water supply.
- e. Where relevant, details regarding access, parking, loading and unloading areas, screening and other information subject to the provisions of this Ordinance.
- f. A copy of proof of ownership.

8.3.B.3 *SUBMISSION REQUIREMENTS FOR TIER 2 REVIEW (CONDITIONAL USE PERMITS)*

All applications for a Conditional Use Permit shall require the following minimum submissions, unless waived by the Zoning Administrator:

- a. All requirements for the Tier 1 review.
- b. All sketches drawn to scale, the scale proportional to the site of the project.
- c. Drawing showing surrounding properties, driveways and roads within 200 feet of the project.
- d. A copy of the deed or proof of equitable title for any new principal or accessory structure on any nonplatted parcel in order to assure compliance with dimensional requirements of this Ordinance, to protect easements from encroachment, and to assure conformance with the *Land Division Act, Public Act 288 of 1967, as amended*.
- e. Ten copies of all drawings.

8.3.B.4 *SUBMISSION REQUIREMENTS FOR TIER 3 REVIEW (SPECIAL USE PERMITS)*

All applications for a Special Use Permit shall require the following minimum submissions, unless waived by the Zoning Administrator:

- a. All requirements of the Tier 1 and Tier 2 review.
- b. Drawing showing the ground contours, wetlands, storm water runoff, screening.
- c. Impact assessment per 8.3.B.5, if required by the Zoning Administrator.
- d. A statement of compliance with all applicable sections of this Ordinance in relation to the special use under consideration.
- e. If required, an Impact Assessment including the information as detailed in Section 8.4.B.5.

8.3.B.5 *SUBMISSION REQUIREMENTS FOR IMPACT ASSESSMENTS*

When required, an impact assessment shall be submitted with the following information:

- a. Name(s) and address(es) of person(s) responsible for preparation of the impact statement.
- b. General description of existing and proposed deed restrictions, if any.
- c. A written description of the environmental characteristics of the site prior to development, i.e., topography, soils, vegetative cover, drainage, streams, creeks or ponds.
- d. Existing and proposed uses and other man-made facilities.
- e. The number of residents, workers, visitors, or patrons and vehicular and pedestrian traffic.
- f. Phasing of the project including ultimate development proposals.

- g. Natural features which will be retained, removed, and/or modified including vegetation, drainage, hillsides, streams, wetlands, woodlands, wildlife, and water. The description of the areas to be changed shall include their effect on the site and on adjacent properties. An aerial photo may be used to delineate the areas of change.
- h. The method to be used to serve the development with water and waste facilities.
- i. The method to be used to control drainage on and from the site.
- j. Current approval from the District Health Department or the Department of Environmental Quality indicating approval of plans for waste treatment.
- k. The method to be used to control any increase in effluent discharge to the air or any increase in noise level emanating from the site. Consideration of any nuisance that would be created within the site or external to the site whether by reason of dust, noise, fumes, vibration, smoke, or lights.
- l. Description of measures to control soil erosion, sedimentation, and stormwater runoff during grading and construction operations and until a permanent ground cover is established.
- m. Type, direction, and intensity of outside lighting.
- n. An indication of how the proposed use conforms with existing and potential development patterns and any adverse effects.
- o. An indication of how the proposed use addresses the applicable environmental protection provisions of the Ordinance.

8.3.B.6 *SIMULTANEOUS PROCESSING OF APPLICATIONS*

Whenever two or more forms of review and approval are required under this Ordinance (e.g., a Special Use Permit and a Variance), the applications for those development approvals may, at the option of the Zoning Administrator, be processed simultaneously, so long as all applicable requirements are satisfied for both applications.

8.3.B.7 *APPLICATION FEES*

- a. The Township may charge reasonable fees sufficient to cover the costs of administration of this Ordinance. The Township Board may from time to time adopt by resolution a fee schedule to accompany all applications submitted under this Ordinance. Fees shall be based on actual direct costs of consultation with qualified professionals in administering or enforcing the Ordinance, including the enforcement of conditions of a permit or approval. Such fees may also include but are not limited to all costs associated with conducting a public hearing or inspection, including publishing the newspaper notice and any map, sending required notices to property owners and renters, photocopying, staff time, Planning Commission, Township Board and/or Zoning Board of Appeals meeting time, mileage and any costs associated with reviews by qualified professionals.

The fee schedule and any amendments shall be available at the Township Clerk's office following adoption by the Township Board.

- b. No application shall be processed until the established fee has been paid; except that the Township Board may exempt Township projects or the projects of other governmental agencies from all or part of the fees by resolution. The Township Treasurer shall keep accurate records of all fee payments.
- c. If the Planning Commission, Zoning Board of Appeals, or Zoning Administrator determines that the basic zoning fees will not cover the actual costs of application review or appeal, or that the participation of a qualified professional engineer, planner, attorney or other qualified professional is necessary, then the applicant shall deposit with the Township Treasurer additional fees as determined by the Zoning Administrator and approved by the Township Board to equal the estimated amount of additional costs
- d. Professional review shall include a report indicating the extent of conformance or nonconformance with this Ordinance and identifying any problems which may create a threat to public health, safety, or the general welfare or to the quality of the air, water, or natural resources of the Township. Mitigation measures, alterations, or alternatives to a proposed design may be identified where they would serve to lessen or eliminate identified impacts. The applicant shall receive a copy of any professional review and a copy of the statement of expenses for the professional services rendered.
- e. Application fees are not refundable except where the Zoning Administrator determines that an application was accepted in error, or the fee paid exceeded the amount due, in which case the amount of the overpayment shall be refunded to the applicant.

8.3.B.8 *DETERMINATION OF SUFFICIENCY*

All applications must be complete before the permit issuing authority or approving body or official is required to consider the application. The Zoning Administrator shall determine if the application includes data in sufficient detail to determine whether it complies with the requirements of this Ordinance. If the Zoning Administrator determines the application is not sufficient, written notice shall be provided to the applicant specifying the application's deficiencies. If the applicant fails to correct the deficiencies within sixty (60) days, the application shall be considered withdrawn.

8.3.B.9 *WITHDRAWAL OF APPLICATION*

Any request for a withdrawal of an application shall be submitted in writing to the Zoning Administrator. The Zoning Administrator shall approve a request for withdrawal of an application if it has been submitted prior to the time of notice of a public hearing. The Planning Commission may allow an applicant to withdraw an application at the request of the applicant at the public hearing.

8.3.B.10 *EXAMINATION AND COPYING OF AN APPLICATION/OTHER DOCUMENTS*

At any time upon reasonable request and during normal business hours, any person may examine an application, the Staff Report, and materials submitted in support of or in opposition to an application in the office of the Zoning Administrator, subject to recognized exceptions under the Freedom of Information Act, as amended, or other state or federal law. Copies of such materials shall be made available at a reasonable cost.

SECTION 8.4 NOTICE AND HEARING PROCEDURES

All applications for development approval requiring public hearings shall comply with the Michigan Zoning Enabling Act, PA 110 of 2006, as amended.

8.4.A CONTENT

All notices for public hearings, including those by publication in a newspaper or mail shall:

8.4.A.1 Identify the name and address of the applicant or the applicant's agent.

8.4.A.2 Describe the nature, scope, and purpose of the application or proposal.

8.4.A.3 Identify the property that is the subject of the request, including a listing of all existing street addresses within the property, or if there is no street address the nearest cross street (street addresses are not required to be listed for any group of eleven (11) or more adjacent properties that are proposed for rezoning).

8.4.A.4 Indicate the date, time, and place of the public hearing(s).

8.4.A.5 Include a statement that the public may appear at the public hearing in person or by counsel, be heard, and submit evidence and written comments with respect to the application.

8.4.A.6 Include a statement describing when and where written comments will be received prior to the public hearing.

8.4.A.7 Add information concerning how handicapped access will be accommodated if the meeting facility is not handicap accessible.

8.4.B NOTICE PROCEDURES

When the provisions of this Ordinance require notice, the Zoning Administrator shall be responsible for preparing the content of the notice and implementing as follows:

8.4.B.1 Publish the notice in a newspaper of general circulation in the Township not less than fifteen (15) days before the date of the hearing.

8.4.B.2 Personally deliver, or deposit notice during normal business hours for delivery with the United States postal service or other public or private delivery service, not less than fifteen (15) days before the date of the hearing, to the following parties (except this provision does not apply to rezoning of any group of eleven (11) or more adjacent properties):

- a. All owners of the property that is the subject of the request.

- b. All persons to whom real property is assessed within three-hundred (300) feet of the property that is the subject of the request.
- c. Occupants of all structures within three-hundred (300) feet of the subject property regardless of whether the property or structure is located in the zoning jurisdiction. 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 persons, one occupant of each unit or spatial area shall be given notice. If a single structure contains more than four dwelling units or other distinct spatial areas owned or leased by different persons, 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.
- d. Each electric, gas, and pipeline utility company, each telecommunication service provider, each railroad operating within the district or zone affected, and the airport manager of each airport, that registers its name and mailing address with the Township Clerk for the purpose of receiving the notice of public hearing.
- e. For appeals of administrative decisions, requests for Ordinance interpretation, and variance requests to the ZBA, if the request does not involve a specific parcel of property, notice need only be published as provided in (1) above and given to the person making the request as provided in (2) above.
- f. When a variance request is made for any parcel located in a wetland documented by the DNR, or within a one-hundred (100) year floodplain, the Michigan Department of Environmental Quality or the Michigan Department of Natural Resources shall also receive notice.

8.4.B.3 Notice shall be deemed mailed by its deposit during normal business hours for delivery with the United States postal service, or other public or private delivery service, by first class, properly addressed, postage paid. The Zoning Administrator shall prepare a list of property owners and registrants to whom notice was mailed.

8.4.B.4 The Zoning Administrator shall provide notice to organizations that have submitted requests for written notice with the Township Clerk. Fees may be assessed in accordance with *P.A. 267 of 1967, as amended* for the provision of this notice. To be eligible for registration, the requesting party must provide the information in the form required by the Township Clerk to ensure notification can be made. All persons that have been registered must re-register annually to remain registered and continue to receive notification pursuant to this Section.

8.4.C DEFERRAL OF PUBLIC HEARING

Any request for a deferral of a public hearing until a later date shall be submitted in writing to the Zoning Administrator. The Zoning Administrator shall approve a request for deferral if it has been submitted prior to the time of notice of a public hearing. The date of the public hearing at which the application will be heard shall be set at the time the deferral is granted by the Zoning

Administrator. The decision-making body may defer consideration at a public hearing on its own motion at any time.

8.4.D PUBLIC HEARING PROCEDURES

All public hearings held pursuant to this Ordinance shall comply with the following procedures:

8.4.D.1 CONDUCT OF PUBLIC HEARING

- a. The burden of demonstrating that an application complies with applicable review and approval standards of this Ordinance is on the applicant, not the Township.
- b. Any person may appear at a public hearing and submit evidence, either individually or as a representative of a person or an organization. Each person who appears at a public hearing shall be identified, state an address, and if appearing on behalf of a person or organization, state the name and mailing address of the person or organization being represented.
- c. The Planning Commission, the Zoning Board of Appeals, or the Township Board may place reasonable and equitable limitations on the presentation of evidence and arguments including, as they believe necessary in a particular instance, excluding testimony or evidence that it finds to be irrelevant, immaterial or unduly repetitious.
- d. In the event any testimony or evidence is excluded as irrelevant, immaterial or unduly repetitious, the person offering such testimony or evidence shall have an opportunity at that meeting to offer such testimony or evidence in writing for the record. Such offer shall be made at the public hearing and promptly provided.

8.4.D.2 CONTINUANCE OF PUBLIC HEARING

- a. The body conducting the public hearing may, on its own motion or at the request of any person, continue the public hearing to a fixed date, time and place and may keep the public presentation portion of the public hearing open to take additional testimony up to the point a final decision is made. An applicant shall have the right to request and be granted one continuance; however, all subsequent continuances shall be granted at the discretion of the body conducting the public hearing only upon good cause shown.
- b. A public hearing for which proper notice was given may be continued to a later date without again complying with the notice requirements of this Section, provided that the continuance is set for a date within thirty-six (36) hours, and the date, time and place of the continued hearing is announced at the time of the continuance and there is continued compliance with the *Open Meetings Act (P.A. 267 of 1976, as amended, Section 15.265(5))*.

8.4.D.3 GENERAL PROCEDURES AND FINDINGS AT PUBLIC HEARING

- a. The body conducting the hearing shall act in accord with any time limits established in this Ordinance. Action shall be taken as promptly as possible in

consideration of the interests of the applicant, the citizens of the Township and the Township, and shall include a statement of a recommendation or decision of approval or disapproval (whichever is appropriate).

- b. The form of all decisions shall include at least the following elements:
 - (i) A summary of the relevant information presented before the decision-making body.
 - (ii) Summary of evidence in record.
 - (iii) A statement of findings or other factors considered, whichever is appropriate, and a statement of the basis upon which such facts were applied with respect to the relevant review standards, if required by state law.
 - (iv) A motion that includes approval, approval with specified conditions or disapproval (whichever is appropriate based on the findings above).
 - (v) A decision is final upon approval of the minutes of the body conducting the hearing at the next regularly scheduled meeting or at a special meeting of the decision-making body and as signified by the signature of the chairperson.

8.4.E NOTIFICATION OF DECISION

Notification of a decision on an application for development approval shall be provided by the Zoning Administrator to the applicant by mail within fourteen (14) days after the decision. A copy of the decision shall also be made available to the public at the offices of the Zoning Administrator, during normal business hours.

SECTION 8.5 SITE PLAN REVIEW AND PERMITTING PROCEDURES

8.5.A AUTHORIZATION

Section 502 of the *Michigan Zoning Enabling Act, P.A. 110 of 2006, as amended*, permits a Township to require the submittal, review, and approval of a site plan detailing what is proposed on a property, in order to ensure conformance with this Ordinance and the applicable regulations of other government agencies, prior to granting zoning approval. Site plan review is a very important tool to ensure that the public health, safety and welfare of the community is protected as land is developed or redeveloped.

8.5.B PURPOSE AND INTENT

It is the purpose of this section to require site plan review for certain buildings, structures, and uses that can be reasonably expected to have a significant impact on the air, water, and other natural resources, traffic patterns, the character of development and existing land uses in the area, or the capacity of public infrastructure and services. The requirements contained in this section are intended to reduce the hazards to life and property due to fire, flooding, soil erosion,

poor surface water drainage, inadequate private sewage disposal systems, pollution, dust, fumes, noise, vibrations, noxious odors and other hazards; and to promote and facilitate the adequate provision of a system of roads, streets and parking, sewage disposal, drainage, public education, recreation and other public improvements, and to promote the harmonious relationship of land uses through proper design.

8.5.C SITE PLAN REVIEW COMMITTEE

The Planning Commission shall serve as the Site Plan Review Committee.

8.5.D SITE PLAN REVIEW FEE

A fee shall be charged to the applicant for site plan review based on a schedule approved by the Township Board.

8.5.E SITE PLAN REVIEW PROCEDURES

8.5.E.1 The Planning Commission shall act on a complete application within thirty (30) calendar days after its acceptance as a complete application by the Zoning Administrator. This time limitation may be extended only by the mutual consent of the applicant and the Zoning Administrator.

8.5.E.2 The Zoning Administrator shall prepare a staff report with a checklist of the applicable standards to ensure each site plan is reviewed and is found to be in compliance prior to approval, and is documented with findings of fact.

8.5.E.3 Site plans may be approved with reasonable conditions.

8.5.E.4 A site plan shall be approved if it contains the required information and is in compliance with all applicable standards in the Zoning Ordinance and other applicable ordinances and state and federal statutes. Before granting approval of any application, the Zoning Administrator and Planning Commission shall be reasonably sure that the proposed development fully complies with all the following as applicable, and may condition approval of the site plan on conformance with any of the following:

- a. All applicable State laws administered by the Michigan Department of Transportation, Department of Natural Resources, Department of Environmental Quality, and/or Department of Agriculture;
- b. County and local ordinances;
- c. The published rules, standards or policies of the County Road Commissioner;
- d. The published rules, standards or policies of the District Health Department;
- e. The fire safety and emergency vehicle access requirements of the Michigan Building Code and/or any local Fire Code having jurisdiction.
- f. If any Planning Commission member demonstrates there is a lack of compliance of a proposed site plan with applicable rules, standards, or ordinances, that site plan shall not be approved until compliance is acknowledged.

- g. Any disapproval of a site plan shall be accompanied by the reasons for that disapproval and provided, in writing, to the applicant in a timely fashion.
- h. After site plan approval a zoning compliance permit must be applied for and obtained.

8.5.F CONFORMITY TO APPROVED SITE PLAN

If construction and development does not conform with an approved site plan, the permit holder or land owner shall be notified of a violation of this Ordinance, and if the circumstances warrant, shall be issued a stop work or cease operations order.

8.5.G SITE PLAN AMENDMENTS

No changes shall be made to an approved site plan prior to, during, or after construction except upon mutual agreement between the applicant and the Township, and by application to the Zoning Administrator.

8.5.H AS-BUILT SITE PLAN SUBMITTAL

Once a project for which a Tier 3 site plan was required is completed, two (2) sets of "as built" site plans showing the exact building footprints, driveways, parking areas, landscaping, utilities, sidewalks, bike paths and trails shall be signed by the licensed professional who prepared them and delivered to the Zoning Administrator within one (1) month of completion of the project (for each phase of a project if multi-phased). The Zoning Administrator may waive this requirement except where major utilities, new streets and/or large buildings are involved.

8.5.I RECONSIDERATION OF DISSAPPROVED APPLICATIONS

Whenever any application for development approval is disapproved, a similar application for all or a part of the same property shall not be considered for a period of one (1) year after the date of disapproval unless a Waiver of Time Limit is approved by the decision-making body per the following requirements:

- 8.5.I.1** Only one request for waiver may be submitted by the applicant during the one-year period.
- 8.5.I.2** The waiver shall be approved only upon a finding by two-thirds of the membership of the decision-making body that:
 - a. There is a substantial change in circumstances relevant to the issues or facts considered during review of the application that might reasonably affect the decision-making body's application of the relevant review standards to the development proposed in the application; or
 - b. New or additional information is available that was not available at the time of the review that might reasonably affect the decision-making body's application of the relevant review standards to the development proposed; or
 - c. A new application is proposed to be submitted that is materially different from the prior application; or

- d. The final decision was based on a material mistake or omission of fact that if known would likely have resulted in a different determination.

SECTION 8.6

ADDITIONAL PERMIT DETAILS

8.6.A

PERFORMANCE GUARANTEES FOR COMPLIANCE

8.6.A.1

In authorizing any permit or approval as authorized under this Ordinance, the approval body or official, as designated by this Ordinance, may require that a performance guarantee be furnished for the following purposes:

- a. To ensure compliance with the requirements, specifications and conditions imposed with the grant of such permit or approval;
- b. To provide sufficient resources for the Township to complete required improvements or conditions in the event the permit holder does not; or
- c. To ensure the discontinuance of a temporary use by a stipulated time.

8.6.A.2

Improvements that shall be covered by the performance guarantee include, but are not necessarily limited to streets and other roadways, utilities, fencing, screening, landscaping, common open space improvements, lighting, drainage and sidewalks. The term "improvements" should not be construed to mean the project itself, but rather those features associated with the project that are deemed necessary to protect the health, safety, and welfare of the Township resources and future users or inhabitants of the proposed project.

8.6.A.3

The performance guarantee shall meet the following requirements:

- a. The performance guarantee shall be in the form of cash, certified check, irrevocable bank letter of credit, surety bond, or similar instrument acceptable to the Township Treasurer, which names the property owner as the obligor and the Township as the obligee.
- b. The performance guarantee shall be submitted at the time of issuance of the permit authorizing the activity of the project.
- c. The amount and type of the performance guarantee shall be determined by the body or official making the decision to approve the request, or if they have not done so, by the Zoning Administrator. The amount of the performance guarantee should be sufficient to cover the estimated cost of the improvements or conditions. The performance guarantee shall be reasonable, appropriate, and commensurate with the scope of the project. Additional guidelines for establishing the amount of a performance guarantee may be prescribed by resolution of the Township Board.
- d. The Zoning Administrator, upon the written request of the obligor, shall rebate portions of the performance guarantee upon determination (after an inspection) that the improvements for which the rebate has been requested have been satisfactorily completed. The portion of the performance guarantee to be rebated

shall be in proportion to the work completed on the applicable improvement or condition, and may be written as an element of the conditions surrounding the approval of the project. Should installation of improvements begin and fail to meet full completion based on the approved Site Plan, or if the project area is reduced in size and improvements are only partially completed or conditions only partially met, the Township may complete the necessary improvements or conditions itself or by contract to an independent developer, and assess all costs of completing the improvements or conditions against the performance guarantee. Any unused balance remaining would be returned to the applicant; any excess expense would be recorded as a lien on the property.

- e. A record of authorized performance guarantees shall be maintained by the Zoning Administrator.

8.6.B PERMIT EXPIRATION

Permits and development approvals shall expire automatically, if, within one (1) year after the issuance of such permits, significant actual construction has not commenced or the use has not commenced. The permit-issuing authority may extend a permit for a period of up to six (6) months from the date when a permit would otherwise expire if it concludes that, (1) the permit recipient has proceeded with due diligence and in good faith; and (2) conditions have not changed so substantially as to warrant a new application.

8.6.C PERMIT EXTENSION

Fees required for an extension shall be according to the Township fee schedule.

8.6.D WITHHOLDING PERMITS

The Zoning Administrator may withhold any permit or approval pending verification that an applicant has received all other required permits.

8.6.E NOTIFICATION FOR INSPECTION PRIOR TO OCCUPANCY

The Zoning Administrator shall perform inspections prior to issuance of a Zoning Compliance Permit and at such other time as is necessary to ensure conformance with this Ordinance and the conditions of any permit or approval. The holder of every permit involving Tier 2 or Tier 3 review shall notify the Zoning Administrator within 24 hours after completion of the work authorized by such permit for a final inspection and verification of the Zoning Compliance Permit.

8.6.F UNRESOLVED VIOLATION

The Zoning Administrator may refuse to issue a Zoning Compliance Permit to a person who is responsible for an unresolved violation of this Ordinance at the requested location, or another location within the jurisdiction of this Ordinance, until such time as the violation is satisfactorily corrected.

8.6.G PREVIOUS APPROVALS

Nothing in this Ordinance shall require changes in the plans, construction, or designated use of a building for which a lawful permit has been issued provided that the construction was lawfully completed in accordance with the Ordinance, permit, and permit conditions.

8.6.H APPLICABILITY OF ZONING APPROVAL

The approval to engage in any land use activity or to construct a building or structure that has received a permit or approval issued under the authority of this Ordinance, or any variance granted by the ZBA, runs with the land, and not with the owner, just like a nonconforming use right. Thus, any person who builds or uses land based on a valid permit or approval granted under the terms of this Ordinance, and later dies, should rest assured that the rights, limitations and conditions granted in that permit automatically transfer to the new owner(s) of the land, provided there were no violations applicable to the land that were unresolved by the previous owner prior to his/her death.

8.6.I CONDITIONAL AND SPECIAL USE PERMIT DETAILS

8.6.I.1 PERMIT REVOCATION FROM FAILURE TO MEET CONDITIONS & TERMS

In the event the Planning Commission believes the holder of a Conditional or Special Use Permit has failed to comply with one or more of the terms or conditions of the permit or of this Ordinance, the Planning Commission may schedule a hearing to consider the revocation of the permit. The permit holder shall be given reasonable notice of the hearing date, which shall in any event be not less than fifteen (15) days from the date of the notice. The notice of hearing shall include a written statement of the reasons for the possible revocation. The permit holder, interested parties, and the Zoning Administrator shall be allowed to appear at the hearing and to present evidence pertinent to whether the permit should be revoked. If the Planning Commission decides to revoke the permit, the use for which the permit was granted must cease within sixty (60) days of the hearing date. Failure to terminate the use for which the permit was revoked within sixty (60) days is declared to be a nuisance per se and a violation of this Ordinance. On the 60th day after the hearing, the Zoning Administrator may inspect the property and notice the permit holder that the use is a per se nuisance and a violation of this Ordinance.

8.6.I.2 PERMIT REVOCATION WITH CHANGE OF USE

If there is a change in the use of a property for which a Conditional or Special Use Permit was issued, the Conditional or Special Use shall automatically terminate and the property shall only be used for a use permitted in the District in which the property is located.

8.6.I.3 REAPPLICATION

No application for a Special Use Permit which has been denied, wholly or in part, shall be resubmitted for a period of one (1) year from the date of the denial, except on satisfactory proof of substantially changed conditions, newly discovered evidence or a falsehood previously relied upon by the Township, which, through the exercise of normal diligence, could not have been

discovered before the hearing as determined by the Zoning Administrator. A reapplication shall be processed as a new application.

8.6.I.4 *RECORDING CONDITIONS WITH REGISTER OF DEEDS*

At the direction of the body or official making the final decision to approve a discretionary permit authorized by this Ordinance, or as otherwise may be specified by this Ordinance, or at the discretion of the Zoning Administrator, an approval or approval with conditions may be recorded with the County Register of Deeds. The following requirements shall be met with each recording:

- a. The applicant shall record an affidavit which has received the approval of the Township Attorney containing the full legal description of the project site, containing the approved site plan, the specific terms of any permit, any documents that pertain to permanent preservation of open space, the date of final Township approval, and declaring that all improvements will be carried out in accordance with the approved site plan or variance unless an amendment thereto is adopted by the Township.
- b. In addition, all deed restrictions and easements associated with the property shall be duly filed with the County Register of Deeds, and copies of all recorded documents shall be presented to the Zoning Administrator. These documents shall be binding upon the landowners, their successors and assigns, and shall constitute the development regulations for the land.
- c. The applicant shall submit proof to the Zoning Administrator that these documents have been recorded with the County Register of Deeds within ninety (90) calendar days of project approval or the approval shall be rendered invalid. Once the proper documents have been recorded with the County Register of Deeds, the applicant may proceed, consistent with the approved Site Plan and Permit, to develop the land.
- d. A copy of any agreement between joint users of parking areas or driveways shall be filed with the application for a Zoning Compliance Permit and recorded with the County Register of Deeds. The agreement shall include a guarantee for continued use of the parking facility or driveway by each party and clearly spell out maintenance responsibilities. A copy of all recorded documents shall be presented to the Zoning Administrator.
- e. All documents to be recorded with the County Register of Deeds at the initiative of the Township shall be first reviewed and approved by the Township representative.

SECTION 8.7 ZONING APPEALS

The ZBA 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 in administering or enforcing any provisions of this Ordinance. An appeal may be taken by a person

aggrieved, or by an officer, department, board, or bureau of the State of Michigan or Portage Township. In addition, a variance in the Zoning Ordinance may be applied for and granted under section 4 of the *Uniform Condemnation Procedures Act, 1980 PA 87, MCL 213.54, as amended*, and as provided under the *Michigan Zoning Enabling Act, 2006 PA 110, as amended*.

8.7.A APPEALS PROCEDURE

The procedure for appealing to the ZBA, or requesting a variance, ordinance interpretation, or filing any other request is as follows:

8.7.A.1 GENERAL APPEALS PROCEDURES

- a. The appeal shall be taken within such time as prescribed by this Ordinance or the Rules of Procedure of the ZBA.
- b. A fee, prescribed by the Township Board, shall be submitted to the Zoning Administrator at the time of the filing of the application form, before an appeal is processed.
- c. The person, firm, agent, or attorney representing the appellant shall file an appeal by completing and signing the application form provided by the Zoning Administrator. The application shall state the grounds for the appeal and the order or ruling appealed from. When applicable, the legal description of the property involved shall be stated in the notice of appeal.
- d. All persons not licensed to practice law in the State of Michigan shall file a written statement signed by the principal stating the agent's right to act upon their behalf.
- e. An application that does not fully comply with the submittal requirements shall be returned to the applicant.
- f. Upon determining that an application is in complete, the Zoning Administrator shall transmit the application and all papers constituting the record from which the appeal was taken to the ZBA.
- g. An appeal to the ZBA stays all proceedings in furtherance of the action appealed. However, if the body or officer from whom the appeal is taken certifies (after the notice of appeal is filed) that, by reason of facts stated in the certificate, a stay would in his or her opinion cause imminent peril to life and property, proceedings may be stayed only by a restraining order issued by the ZBA or a circuit court.
- h. A public hearing shall be held on each action that is brought before the ZBA.
- i. Any interested party may appear and be heard at such hearing in person or by agent or attorney. The applicant shall have the burden of presenting to the Board sufficient evidence and argument to justify the requested order or decision. If an applicant fails to appear at the hearing, in person or through an agent or attorney, the ZBA shall conduct the hearing and issue its decision based on the information available at the hearing.

- j. Upon the date for hearing any application or appeal, the ZBA may adjourn the hearing in order to obtain additional information, or to cause service of such further notice as it deems proper. In the case of an adjourned hearing, persons previously notified and persons already heard need not be notified of the resumption of the hearing, provided the hearing is continued within thirty-six (36) hours, pursuant to *Section 15.265(5) of the Open Meetings Act, Public Act 276 of 1976, as amended*.
- k. Once all the necessary information has been received, the ZBA shall return a decision on a case in a timely manner or within the time specified in the rules of procedure. The ZBA may reverse or affirm, wholly or partly, or modify the order, requirement, decision, or determination and may issue or direct the issuance of a permit. The ZBA shall grant no variance or make any determination on an appeal, Ordinance interpretation, or other issue requested of it unless the Board records specific findings of fact based directly on the particular evidence presented to it. These findings of fact must support conclusions that the standards imposed by the requirements of this Ordinance have been met.
- l. No rehearing on an application denied by the ZBA shall be conducted except upon the grounds of newly discovered evidence or a falsehood previously relied upon by the ZBA, which, through the exercise of normal diligence, could not have been discovered before the hearing, as determined by the Zoning Administrator. A rehearing shall be processed in the same manner as the original application and a new fee shall be paid. A request for rehearing shall be made within eight (8) days of the decision of the ZBA.
- m. No decision of the ZBA shall be presumed final until after eight (8) days following the meeting at which the decision was made. No Zoning Compliance Permit shall be issued by the Zoning Administrator based on a decision of the ZBA before eight (8) days have expired.
- n. The decision of the ZBA shall be final. A party aggrieved by the decision may appeal to the County Circuit Court within thirty (30) days of the decision.

8.7.A.2 PROCEDURES FOR ZONING ORDINANCE INTERPRETATIONS

THE ZONING BOARD OF APPEALS SHALL:

- a. Determine the precise location of the boundary lines between zoning districts when there is confusion or a dispute concerning the zoning map.
- b. Classify a use which is not specifically mentioned as 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. The classification of the unmentioned use does not automatically permit the use, it only identifies the district in which it may be located and the zoning regulations with which it must conform.

- c. Determine the signage, landscaping, buffering, off-street parking and loading space requirements of any use not specifically mentioned in this Ordinance, by applying the most comparable provisions for other similar uses.
- d. When making an interpretation, the ZBA shall carefully consider the Ordinance definitions; the meaning of all the relevant sections in the Ordinance; past decisions of the ZBA on similar matters; research and any conclusions by the Zoning Administrator, consultant, Township Attorney; and shall make a decision on the narrowest grounds feasible so as not to upset the meaning and application of this Ordinance.

8.7.A.3 *DETERMINATION OF A LOT OF RECORD*

- (i) Upon application of any person claiming to be the owner of the legal or equitable title to a parcel of land which was the subject to a deed or land contract, not recorded in the Office of the Register of Deeds on the effective date of this Ordinance, the ZBA is authorized to conduct a hearing to determine whether a variance should be granted to such owner entitling him to have the parcel treated as a "lot of record" as defined in Article 2 of this Ordinance.
- (ii) The Board shall grant said variance when it finds by a preponderance of the evidence that the instrument purporting to transfer title to the parcel of said owner was executed prior to the effective date of this Ordinance. In making its determination, the Board is authorized to consider all matters it deems relevant, including but not limited to, the tax roll of the Township, the relationship of the parties to the purported transfer, the degree of formality of the purported document of transfer, and the testimony of the applicant and his or her witnesses.
- (iii) Such a determination shall have only the effect of equating such an owner with the owner of a lot of record and shall not relieve such owner from complying with the other requirements set forth in this Ordinance.

8.7.A.4 *GRANTING VARIANCES*

The ZBA shall not accept, nor grant "use variances". If there are *practical difficulties* for nonuse variances in the way of carrying out the strict letter of the Ordinance, as provided in the *Michigan Zoning Enabling Act, 2006 PA 110, as amended*, ZBA may grant a variance so that the spirit of the Ordinance is observed, public safety secured, and substantial justice done. The following rules shall be applied in the granting of a variance:

- (i) The ZBA may impose specific conditions as are reasonably necessary for the furtherance of the intent and spirit of this Ordinance. The ZBA shall specify, in writing, such conditions regarding the character, location, and other features which will, in its judgment, ensure the protection of the public interest and abutting properties, provided there is an applicable standard in this Ordinance to serve as the basis for such condition. The breach of such condition shall

automatically invalidate the permit granted. To ensure compliance with such conditions, the ZBA may require a cash deposit, certified check, irrevocable bank letter of credit, or surety bond per the requirements of Section 8.7. The Board may also require as a condition of approval that its decision be recorded with the County Register of Deeds.

- (ii) Each variance granted under the provisions of this Ordinance shall become null and void unless the construction authorized has been commenced within one (1) year after the hearing date when the variance was granted.
- (iii) The ZBA shall have the authority to grant nonuse variances relating to the construction, structural changes, or alteration of buildings or structures related to the dimensional requirements of the Ordinance or to any other nonuse-related standard in the Ordinance, provided the applicant has proven a *practical difficulty* by demonstrating as follows:
 - 1. That strict compliance with the Ordinance would unreasonably prevent the owner from using the property for a permitted purpose, or would render conformity with such restrictions unnecessarily burdensome; and
 - 2. That the problem is due to a unique circumstance of the property; and
 - 3. That the specific conditions relating to the property are not so general or recurrent in nature, in the zoning district, so as to require an amendment to this Ordinance, instead of a variance; and
 - 4. The property problem was not created by the action of the applicant; and
 - 5. That the granting of the variance will not cause a substantial adverse effect upon property values in the immediate vicinity or district; and
 - 6. That granting of the variance will not increase the hazard from fire, flood, or similar dangers, or increase traffic congestion; and
 - 7. That the non-conforming dimensions of other lands, structures, or buildings in the same zoning district shall not be considered grounds for the issuance of a variance; and
 - 8. That the variance is the minimum variance that will make possible the reasonable use of the land, building, or structure in the zoning district in which it is located; and
 - 9. That the proposed use of the premises is in accord with this Ordinance (the requested variance shall not amend the permitted uses of the zoning district in which it is located); and
 - 10. That the variance would do substantial justice to the applicant as well as to other property owners in the district; and
 - 11. That the granting of the variance will ensure that the spirit, intent and purpose of the Ordinance is observed, public safety secured and substantial justice applied.

8.7.A.5 SITE PLAN REVIEW AND SPECIAL USE APPEALS

- (i) Any applicant for Site Plan Review that feels aggrieved by the decision of the Zoning Administrator or Planning Commission may appeal the decision to the ZBA within twenty-one (21) calendar days of receipt of the decision.
- (ii) The ZBA shall review the decision of the Zoning Administrator or Planning Commission to ensure that it is consistent with the standards contained in this Ordinance and rules established by agencies responsible for site plan review.
- (iii) The ZBA shall give written justification for their decision.
- (iv) The ZBA may not grant a variance to any element of a site plan unless an application for a variance has been filed; any such variance request shall be reviewed relative to the applicable requirements and variance standards.
- (v) An applicant for a Special Use may not appeal a decision to approve, approve with conditions, or deny the decision thereon to the ZBA. Other such appeals may only be taken to Circuit Court.

SECTION 8.8 AMENDMENTS

It is the purpose of this Section to establish the procedures and standards for amendment of the text and Zoning Map of this Ordinance.

8.8.A INITIATION OF AMENDMENTS

The regulations and provisions stated in the text of this Ordinance and the boundaries of zoning districts shown on the Zoning Map of Portage Township may be amended pursuant to the *Michigan Zoning Enabling Act, P.A. 110 of 2006, as amended*. Amendments may be initiated by the Township Board, the Planning Commission, by petition of one or more persons having an interest in the property to be affected by the proposed amendment. Each petition for amendment shall be submitted to the Zoning Administrator who shall refer it for recommended action to the Planning Commission.

8.8.B FEES

The Township Board shall establish, by resolution, fees for zoning amendment petitions. Such fees shall be paid in full at the time of application, and no part of such fees shall be returnable to the petitioner. Fees shall not be required for amendments proposed or requested by the Township Board or the Township Planning Commission.

8.8.C AMENDMENT PROCEDURES

8.8.C.1 All petitions for text amendment, rezoning, or Zoning Map change shall be submitted and reviewed per the requirements of this Section.

8.8.C.2 The Planning Commission may solicit information and testimony on the proposed amendment from other officials or professionals or any other person the Township Planning Commission believes should be notified.

8.8.C.3 The Planning Commission shall establish a date for and conduct at least one (1) public hearing at a regular or special meeting on each petition for amendment; notice of which shall be given pursuant to the requirements of Section 8.5. The Planning Commission shall conduct the public hearing consistent with the hearing procedures in Section 8.5.

8.8.C.4 In reviewing any petition for a zoning amendment, the Planning Commission shall identify and evaluate all factors relevant to the petition and shall report its findings in full along with its resulting recommendations to the Township Board. The facts to be expressly considered by the Planning Commission shall include, but shall not be limited to the following:

- a. What, if any, identifiable conditions related to the petition have changed which justify the petitioned change in zoning?
- b. What, if any, error in judgment, procedure, or administration was made in the original Ordinance which justifies the petitioned change in zoning?
- c. What are the precedents and the possible effects of precedent which might result from the approval or denial of the petition?
- d. What is the impact of the amendment on the ability of the Township and other governmental agencies to provide adequate public services and facilities and/or programs that might reasonably be required in the future if the petition is approved?
- e. Does the petitioned zoning change adversely affect the environmental conditions or value of the surrounding property?
- f. Are there any significant negative environmental impacts which would reasonably occur if the petitioned zoning change and resulting allowed structures were built such as:
 - (i) Surface water drainage problems
 - (ii) Wastewater disposal problems
 - (iii) Adverse effect on surface or subsurface water quality
 - (iv) The loss of valuable natural resources such as forest, wetland, historic, or scenic sites, wildlife, mineral deposits, or valuable agricultural land.
- g. Does the petitioned zoning change generally comply with the policies and uses proposed for the area in the adopted Portage Township Master Plan? If not, and if the proposed zoning change is reasonable in light of all other relevant factors, then the Plan should be amended before the requested zoning amendment is approved.
- h. Whether all of the uses allowed under the proposed rezoning would be compatible with other zones and uses in the surrounding area.
- i. Whether the uses allowed under the proposed rezoning would be equally or better suited to the area than uses allowed under the current zoning of the land.
- j. If a specific property is involved, can the property in question be put to a reasonable economic use in the zoning district in which it is presently located

(after considering all of the uses permitted by right, by special permit or as conditional uses)?

- k. Is another procedure, such as a Variance, Conditional Use, or Special Use procedure a more appropriate alternative than a rezoning?

8.8.C.5 All findings of fact shall be made in writing and shall be a part of the public records of the meeting of the Planning Commission and the Township Board. The Planning Commission shall not forward a recommendation to the Township Board unless all of the findings in Section 8.9.C.4 and other factors identified by the Ordinance are affirmatively resolved. After the hearing, the Planning Commission shall submit a summary of the comments received at the public hearing its findings of fact and the proposed amendment (including any zoning maps and other related material) to the Township Board.

8.8.C.6 After receiving the recommendations of the Planning Commission, the Township Board, at any regular meeting or at any special meeting called for that purpose, shall consider said findings of fact and recommendations and vote upon the adoption of the petitioned amendment. Such action shall be by a roll call vote. The amendment shall be approved by a majority vote of all of the members of the Township Board. The Township Board may hold additional public hearings if it considers it necessary. Notice of a public hearing held by the Township Board shall be published in a newspaper which circulates in the Township. The notice shall be given not less than fifteen (15) days before the hearing. Further, it is understood pursuant to the *Michigan Zoning Enabling P.A. 110 of 2006, as amended*, that the Township Board shall make no change in the proposed amendment without first referring the petition back to the Planning Commission which shall have thirty (30) days from and after such referral in which to make a further recommendation to the Township Board, after which the Township Board shall take such action as it determines necessary. In the event that a petition is referred back to the Planning Commission, the Township Board shall make specific mention of their objections to the Planning Commissions' findings and recommendations.

8.8.C.7 When integrating amendments into this Ordinance, staff may correct grammatical, punctuation, and spelling errors; change reference numbers; substitute figures for written words and vice versa; change effective dates; and perform like actions to ensure a uniform format without altering the meaning of the enacted provisions.

SECTION 8.9

CONDITIONAL REZONING PROCEDURES

8.9.A INTENT

It is recognized that there are certain instances where it would be in the best interests of the Township, as well as advantageous to property owners seeking a change in zoning boundaries, if certain conditions could be proposed by property owners as part of a request for a rezoning. It is the intent of this Section to provide a process consistent with the provisions of *Section 405 of the Michigan Zoning Enabling Act (MCL125.3405), as amended*, by which an owner seeking a rezoning may voluntarily propose conditions regarding the use and/or development of land as part of the rezoning request.

8.9.B APPLICATION AND OFFER OF CONDITIONS

8.9.B.1 An owner of land may voluntarily offer in writing conditions relating to the use and/or development of land for which a rezoning is requested. This offer may be made either at the time the application for rezoning is filed or may be made at a later time during the rezoning process. A pre-application conference is strongly suggested.

8.9.B.2 The required application and process for considering a rezoning request with conditions shall be the same as that for considering rezoning requests made without any offer of conditions, except as modified by the requirements of this Section.

8.9.B.3 The owner's offer of conditions may not purport to authorize uses or developments not permitted in the requested new zoning district.

8.9.B.4 The offer of conditions may be amended during the process of rezoning consideration provided that any amended or additional conditions are entered voluntarily by the owner. An owner may withdraw all or part of its offer of conditions any time prior to final rezoning action of the Township Board provided that, if such withdrawal occurs subsequent to the Planning Commission's public hearing on the original rezoning request, then the rezoning application shall be referred to the Planning Commission for a new public hearing with appropriate notice and a new recommendation.

8.9.C PROCESS FOR SPECIAL SITUATIONS

8.9.C.1 Any use or development proposed as part of an offer of conditions that would require a Conditional or Special Use Permit under the terms of this Ordinance may only be commenced if a Conditional or Special Use Permit for such use or development is ultimately granted in accordance with the provisions of this Ordinance.

8.9.C.2 Any use or development proposed as part of an offer of conditions that would require a Variance under the terms of this Ordinance may only be commenced if

a Variance for such use or development is ultimately granted by the ZBA in accordance with the provisions of this Ordinance.

- 8.9.C.3** Any use or development proposed as part of an offer of conditions that would require Site Plan approval under the terms of this Ordinance may only be commenced if Site Plan approval for such use or development is ultimately granted in accordance with the provisions of this Ordinance.

8.9.D PLANNING COMMISSION REVIEW

The Planning Commission, after public hearing and consideration of the factors for rezoning set forth in Section 8.9.C of this Ordinance, may recommend approval, approval with recommended changes or denial of the rezoning; provided, however, that any recommended changes to the offer of conditions are acceptable to and thereafter offered by the owner.

8.9.E TOWNSHIP BOARD REVIEW

After receipt of the Planning Commission's recommendation, the Township Board shall deliberate upon the requested rezoning and may approve or deny the conditional rezoning request. The Township Board's deliberations shall include, but not be limited to, a consideration of the factors for rezoning set forth in Section 8.9.C of this Ordinance. Should the Township Board consider amendments to the proposed conditional rezoning advisable and if such contemplated amendments are acceptable to and thereafter offered by the owner, then the Township Board may refer such amendments to the Planning Commission for a recommendation within a time specified by the Township Board and proceed thereafter in accordance with said statute to deny or approve the conditional rezoning with or without amendments. If the Township Board finds the rezoning request and offer of conditions acceptable, the offered conditions shall be incorporated into a formal written Statement of Conditions acceptable to the owner and conforming in form to the provisions of this Section. The Statement of Conditions shall be incorporated by attachment or otherwise as an inseparable part of the Ordinance adopted by the Township Board to accomplish the requested rezoning.

8.9.F STATEMENT OF CONDITIONS

The Statement of Conditions shall:

- 8.9.F.1** Be in a form recordable with the Register of Deeds of the County in which the subject land is located or, in the alternative, be accompanied by a recordable Affidavit or Memorandum prepared and signed by the owner giving notice of the Statement of Conditions in a manner acceptable to the Township Board.
- 8.9.F.2** Contain a legal description of the land to which it pertains.
- 8.9.F.3** Contain a statement acknowledging that the Statement of Conditions runs with the land and is binding upon successor owners of the land.
- 8.9.F.4** Incorporate by attachment or reference any diagram, plans or other documents submitted or approved by the owner that are necessary to illustrate the implementation of the Statement of Conditions. If any such documents are

incorporated by reference, the reference shall specify where the document may be examined.

8.9.F.5 Contain a statement acknowledging that the Statement of Conditions or an Affidavit or Memorandum giving notice thereof may be recorded by the County with the Register of Deeds.

8.9.F.6 Contain the notarized signatures of all of the owners of the subject land preceded by a statement attesting to the fact that they voluntarily offer and consent to the provisions contained within the Statement of Conditions.

8.9.G OTHER STEPS

8.9.G.1 Upon the rezoning taking effect, the Zoning Map shall be amended to reflect the new zoning classification along with a designation that the land was rezoned with a Statement of Conditions. The Township Clerk and Zoning Administrator shall maintain a listing of all lands rezoned with a Statement of Conditions.

8.9.G.2 The approved Statement of Conditions or an Affidavit or Memorandum giving notice thereof shall be filed by the Township with the Register of Deeds of the County in which the land is located. The Township Board shall have authority to waive this requirement if it determines that, given the nature of the conditions and/or the time frame within which the conditions are to be satisfied, the recording of such a document would be of no material benefit to the Township or to any subsequent owner of the land.

8.9.H IMPLEMENTATION

8.9.H.1 Upon the rezoning taking effect, the use of the land so rezoned shall conform thereafter to all of the requirements regulating use and development within the new zoning district as modified by any more restrictive provisions contained in the Statement of Conditions.

8.9.H.2 Any failure to comply with a condition contained within the Statement of Conditions shall constitute a violation of this Zoning Ordinance and be punishable accordingly. Additionally, any such violation shall be deemed a nuisance per se and subject to judicial abatement as provided by law.

8.9.H.3 No permit or approval shall be granted under this Ordinance for any use or development that is contrary to an applicable Statement of Conditions.

8.9.H.4 Unless another time period is specified in the Ordinance rezoning the subject land, the approved development and/or use of the land pursuant to building and other required permits must be commenced upon the land within twelve (12) months after the rezoning took effect and thereafter proceed diligently to completion. This time limitation may upon written request be extended by the Township Board if:

- a. It is demonstrated to the Township Board's reasonable satisfaction that there is a strong likelihood that the development and/or use will commence within the period of extension and proceed diligently thereafter to completion; and
- b. The Township Board finds that there has not been a change in circumstances that would render the current zoning with Statement of Conditions incompatible with other zones and uses in the surrounding area or is otherwise inconsistent with sound zoning policy.

8.9.H.5 If approved development and/or use of the rezoned land does not occur within the time frame specified above, then the land shall revert to its former zoning classification as set forth in *MCL 125.3405(2)*. The reversion process shall be initiated by the Township Board requesting that the Planning Commission proceed with consideration of rezoning of the land to its former zoning classification. The procedure for considering and making this reversionary rezoning shall thereafter be the same as applies to all other rezoning requests.

8.9.H.6 When land that is rezoned with a Statement of Conditions is thereafter rezoned to a different zoning classification or to the same zoning classification but with a different or no Statement of Conditions, the Statement of Conditions imposed under the former zoning classification shall cease to be in effect. Upon the owner's written request, the Township Clerk shall record with the Register of Deeds of the County in which the land is located a notice that the Statement of Conditions is no longer in effect.

8.9.H.7 During the time period for commencement of an approved development or use specified per Section 8.10.F above, or during any extension thereof granted by the Township Board, the Township shall not add to or alter the conditions in the Statement of Conditions. The Statement of Conditions may be amended thereafter in the same manner as was prescribed for the original rezoning and Statement of Conditions.

8.9.H.8 Nothing in the Statement of Conditions nor in the provisions of this Section shall be deemed to prohibit the Township from rezoning all or any portion of land that is subject to a Statement of Conditions to another zoning classification. Any rezoning shall be conducted in compliance with this Ordinance and the *Michigan Zoning Enabling Act, as amended*.

8.9.H.9 The Township shall not require an owner to offer conditions as a requirement for rezoning. The lack of an offer of conditions shall not affect an owner's rights under this Ordinance.

8.9.H.10 Following the adoption of an amendment by the Township Board and approval by the State of Michigan, one (1) notice of adoption shall be published in a newspaper of general circulation in the County within fifteen (15) days after adoption by the Township Board. The notice of adoption shall include the following information:

- a. A summary of the regulatory effect of the amendment (including the geographic area affected) or the text of the amendment.
- b. The effective date of the amendment.
- c. The place and time where a copy of the Ordinance may be purchased or inspected.

8.9.H.11 A property owner whose amendment or rezoning request is denied may file an appeal with Circuit Court.

SECTION 8.10 VIOLATIONS AND PENALTIES

Violations of any provisions of this Ordinance are declared to be nuisance per se. It shall be unlawful for any person to commence operations of any kind that are in violation of the terms of this Ordinance and any violations shall be subject to the penalties herein prescribed.

8.10.A COMPLAINT PROCEDURE

8.10.A.1 The filing of a complaint with the Zoning Department must be in writing by fax, mail, e-mail, or hand-delivery. The complaint shall include the address of the violation and name and contact information for the complainant (the complainant can also choose to remain anonymous). The complainant may also include their address with permission for the Zoning Enforcement Officer to enter their property to view the reported violation. Any and all building or land use activities considered possible violations of the provisions of this Ordinance observed or communicated to local Law Enforcement or to any Township officials shall be reported to the Zoning Administrator.

8.10.A.2 The Zoning Administrator or approved agent shall investigate the complaint in a timely manner, take whatever action is warranted, and inform the complainant of actions that have been or will be taken.

8.10.B ENFORCEMENT ACTIONS

8.10.B.1 The owner, tenant, or occupant of any building or land or part thereof and any architect, builder, contractor, agent or other person who participates in, assists, directs, creates, or maintains any situation that is contrary to the requirements of this Ordinance may be held responsible for the violation and suffer the penalties and be subject to the remedies herein provided.

8.10.B.2 Enforcement actions may include the following:

- a. Visit the site to verify the alleged violation.
- b. If a violation is identified, the landowner and/or contractor shall be informed, in writing, of the nature of the violation, informed of the action necessary to correct the violation and the date when the compliance is to be completed. They shall also be informed of their right to appeal the decision of the Zoning Administrator. This action may be taken in person or by certified mail.

- c. Where the violation is one of unlawful construction, reconstruction, or removal, a "Stop Work" notice form shall be attached to the site or delivered to the contractor or owner. The owner or owner's agent shall also be informed of their right to appeal the decision of the Zoning Administrator.
- d. The site of the alleged violation shall be re-inspected on the date when the owner or contractor was informed compliance was to be completed.
- e. If compliance has not been completed, and an appeal of the decision of the Zoning Administrator has not been filed, the Township Attorney shall be informed to determine further action.
- f. In cases when delay would seriously threaten the effective enforcement of this Ordinance, if the violation continues, such as if the violation is one of unlawful construction, reconstruction, alteration, removal or usage, or poses a danger to the public health, safety or welfare, then the Zoning Administrator may seek enforcement without prior written notice by requesting the Township Attorney to invoke any one of the remedies authorized in this Ordinance.

8.10.C TYPES OF VIOLATIONS

8.10.C.1 MISDEMEANOR

Unless a violation of this Ordinance is specifically designated as a municipal civil infraction, the violation shall be deemed a misdemeanor. Any person deemed guilty of a misdemeanor shall, upon conviction thereof, be punished by imprisonment in the county jail for not more than ninety (90) days or by a fine of not more than five hundred dollars (\$500.00), or by both such fine and imprisonment. Each day that a violation is permitted to exist shall constitute a separate punishable offense. The Township Attorney may institute those remedies provided by statute, court rule, and case law to prevent or remove any unlawful erection, construction, maintenance, or use. Damages, costs, and reasonable attorney fees shall be paid to compensate the Township for its cost of Ordinance enforcement. The imposition of any sentence shall not exempt the offender from compliance with the provision of this Ordinance.

8.10.C.2 MUNICIPAL CIVIL INFRACTION

The following violations of this Ordinance may be handled as a municipal civil infraction:

- a. A violation of the terms of an approved Zoning Compliance Permit.
- b. A violation of the terms of an approved Site Plan.
- c. A violation of the terms of an approved Conditional or Special Use Permit.
- d. A violation of any variance, condition, or other approval of the ZBA.
- e. A violation of any other permit granted under this Ordinance.

8.10.D CIVIL AND CRIMINAL PENALTIES

Each day that a violation exists constitutes a separate offense or infraction. The rights and remedies provided herein are cumulative and in addition to any other remedies provided by law.

8.10.D.1 *CIVIL FINE*

The sanction for any violation of the Portage Township Zoning Ordinance which is a municipal civil infraction shall be a civil fine plus any costs, damages, expenses and other sanctions. The Zoning Administrator, together with deputies of local law enforcement, are the Township officials authorized to issue municipal civil infraction violation notices and municipal civil infraction violation citations under this Ordinance.

8.10.D.2 *CIVIL ACTION*

In addition to enforcing violations as misdemeanors or municipal civil infractions, violations of this Ordinance may be enforced by civil action along with any other remedies provided by law. Violations of the Ordinance are a nuisance per se, and adjudication of responsibility for a municipal civil infraction violation of this Ordinance shall not preclude other civil proceedings to abate such nuisance.

8.10.D.3 *NO PERMIT FOR VIOLATORS*

The Zoning Administrator may refuse to issue new Zoning Permits to a person who has failed to correct violations or to any person representing a firm which has failed to correct violations of this Ordinance or the *Michigan Construction Code Act, Public Act 230 of 1972, as amended, or the Land Division Act, Public Act 288 of 1967, as amended.*

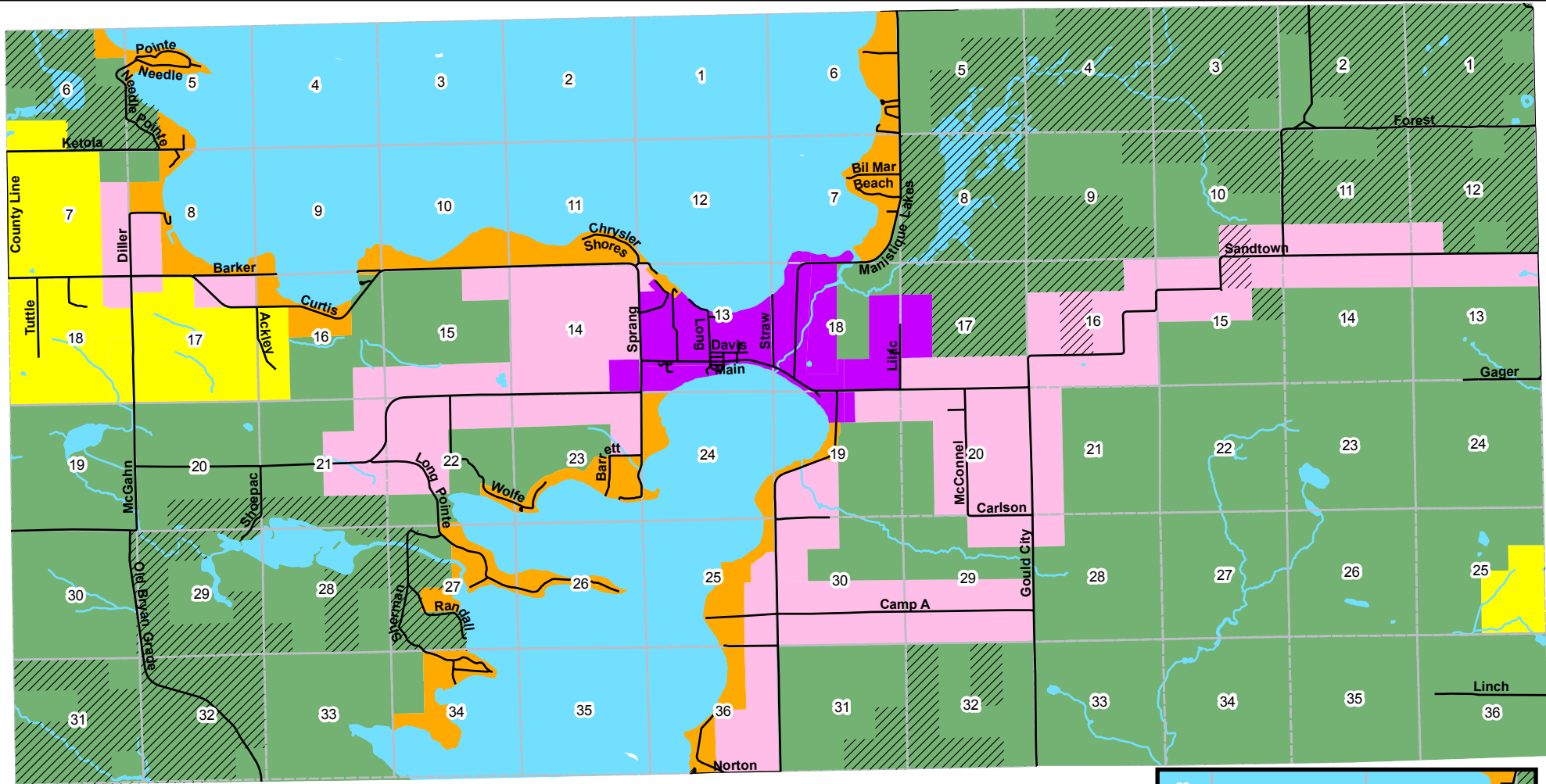
8.10.D.4 *SCHEDULE OF FINES*

- a. A person, corporation, or firm who violates any provision of the Portage Township Zoning Ordinance that is found responsible by the District Court for a municipal civil infraction shall pay a civil fine of not more than \$500, plus costs and other sanctions, for each infraction.
- b. Repeat offenses shall be subject to increased fines as set forth below. As used in this subsection, "repeat offense" means a second (or any subsequent) municipal civil infraction violation of the same requirement or provision of the section of Portage Township Zoning Ordinance committed by a corporation, person, or firm within any twenty-four (24) month period and for which the person admits responsibility or is determined to be responsible. The increased fine for a repeat offense under those subsections shall be as follows:
 - (i) The fine for any offense that is a repeat offense shall be no less than \$140 plus costs and other sanctions.
 - (ii) The fine for any offense that is a second repeat offense shall be no less than \$500 plus costs and other sanctions.

8.10.E *JUDICIAL REVIEW*

A person having an interest affected by a decision of the ZBA and/or any other body, board or official under this Zoning Ordinance, and who has otherwise exhausted their administrative remedies under this Ordinance, may appeal to the County Circuit Court. All such appeals shall be filed with the County Clerk

within twenty-one (21) calendar days after the date the written decision is signed by the Zoning Administrator, or chairperson of the body, board or commission that made the final decision in the matter.

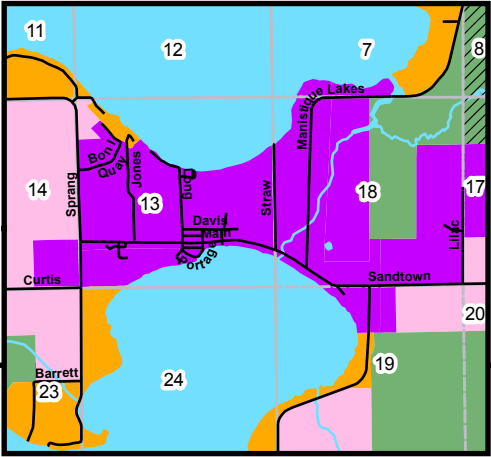


Zoning Districts

- (A-1) - Agriculture Resource Production
- (F-1) - Forestry Resource Production
- (R-1) - Rural Residential
- (R-2) - Lakeshore Residential
- MU - Mixed Use

Base Layers

- Roads
- Rivers | Streams
- Lakes
- Section Lines
- State of MI

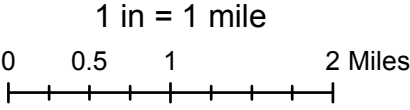


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**Portage Township
Zoning Map
Draft**

Date: 4/24/2014



Data Sources: State of MI, EUPRPDC