

**Denver Township**  
Newaygo County, Michigan

**ZONING ORDINANCE**  
ORDINANCE NUMBER 092012

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**CHAPTER 1**  
**TITLE, PURPOSE, SCOPE AND LEGAL BASIS**

**SECTION 1.01 TITLE**

This Ordinance shall be known and may be cited as the "Denver Township Zoning Ordinance."

**SECTION 1.02 PURPOSE**

This Ordinance is established for the following purposes:

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

### **SECTION 1.03 SCOPE**

Zoning affects all structures and land uses within the Township.

Uses, activities or structures not specifically mentioned in this Ordinance are prohibited.

### **SECTION 1.04 LEGAL BASIS**

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

### **SECTION 1.05 REPEAL**

The Denver Zoning Ordinance, adopted September 23, 1993, as amended, and any prior zoning ordinances, including the Sign Ordinance, adopted March 22, 2007, are hereby repealed effective coincident with the effective date of this Ordinance. The repeal of said ordinances shall not have the effect of releasing or relinquishing any penalty, forfeiture or liability incurred under the ordinance, or any part thereof, and the ordinance shall be treated as still remaining in force for the purpose of instituting or sustaining any proper action for the enforcement of penalty, forfeiture or liability.

Conditions which have been attached to land, buildings, structures, and uses resulting from actions under a prior ordinance shall remain in effect unless specifically waived by this Ordinance, or through proper amendment, subject to the requirements of this Ordinance.

### **SECTION 1.06 CONFLICTS WITH OTHER LAWS**

The provisions of this Ordinance are the minimum requirements necessary for the protection of the health, safety, comfort, morals, convenience and general welfare of the people at large.

If there are found to be differences between the meaning or implication of any drawing, table, figure, title or section heading, the text of this Ordinance shall apply.

This Ordinance shall not repeal, abrogate, annul or in any way impair or interfere with existing provisions of other laws, ordinances or regulations, except those repealed herein by specific reference, or with private restrictions placed upon property by covenant, deed or other private agreement, or with restrictive covenants running with the land to which the Township is a party.



Conflict or Inconsistency:

- A. Internal: Unless otherwise specifically stated within this Ordinance, if two or more provisions are in conflict or are inconsistent with one another, then the most restrictive provision shall apply.
- B. Local regulations: Where this Ordinance imposes greater restrictions, limitations, or requirements upon the use of buildings, structures, or land; the height of buildings or structures; lot coverage; lot areas; yards or other open spaces; or any other use or utilization of land than are imposed or required by existing laws, ordinances, regulations, private restrictions, or restrictive covenants, the provisions of this Ordinance shall control.
- C. Federal & State Regulations: Whenever a provision of the Ordinance imposes a greater restriction or a higher standard than is required by any State or federal code or regulation, county or Township ordinance or regulation, the provision of this Ordinance shall apply. Whenever a provision of any State or federal code or regulation, County or Township ordinance or regulation imposes a greater restriction or a higher standard than is required by this Ordinance, the provision of the State or federal code or regulation, or other County or Township ordinance or regulation shall apply.
- D. Private restrictions: Whenever a private covenant, contract, commitment, agreement, or other similar private land use regulation imposes a greater restriction or a higher standard than is required by a provision of the Ordinance, the Township is not obligated to enforce the provisions of such private covenants, contracts, commitments, agreements, or other similar regulations to which the Township is not a party. Unless the Township has an ownership interest in the property, a deed restriction is enforced by the parties to the agreement, not by the Township.
- E. State Law amendments: Whenever codes cited in this Ordinance refer to Michigan law which has been amended or superseded, this Ordinance shall be deemed amended in reference to the new or revised code.

## **CHAPTER 2 GENERAL PROVISIONS**

### **SECTION 2.01 CHAPTER APPLICABILITY**

Unless otherwise specified, the provisions of this Chapter apply to all zoning districts within the Township.

### **SECTION 2.02 APPLICATION OF ZONING**

All buildings, structures or land may be used, constructed, altered or occupied, only when in conformity with all of the regulations specified in this Ordinance for the district in which it is located in accordance with the procedures of this Ordinance.

Except as otherwise permitted by this Ordinance, after the effective date of this Ordinance no building or other structure shall be altered:

- A. To accommodate or house a greater number of persons or families than permitted by the Zoning District.
- B. To have narrower or smaller rear yards, front yards, or other side yards, other than permitted by the Zoning District.

Any land use not specifically permitted is prohibited. When a use or activity is not stated in this Ordinance, the Zoning Administrator shall request an interpretation by the Zoning Board of Appeals to make a determination on the classification of the use. The Zoning Board of Appeals shall forward the classification to the Planning Commission to amend the ordinance, as appropriate, to address the use if deemed appropriate. An applicant may also petition the Township for an amendment to the Zoning Ordinance to address the use or activity being considered.

### **SECTION 2.03 GRADING, EXCAVATION, FILING, CREATION OF PONDS**

- A. No soil, sand, gravel, or other earth material shall be removed or deposited from any land within Denver Township without Special Land Use approval, with the following exceptions:
  - 1. When the earth removal or stockpiling is incidental to an operation for which an individual building permit has been issued by the designated public official;
  - 2. When the earth removal involves any normal landscaping, driveway installation, maintenance or repairs, or other minor projects;
  - 3. When the earth removal is for the construction of a swimming pool.

## **SECTION 2.04 FRONTAGE REQUIRED ON A STREET**

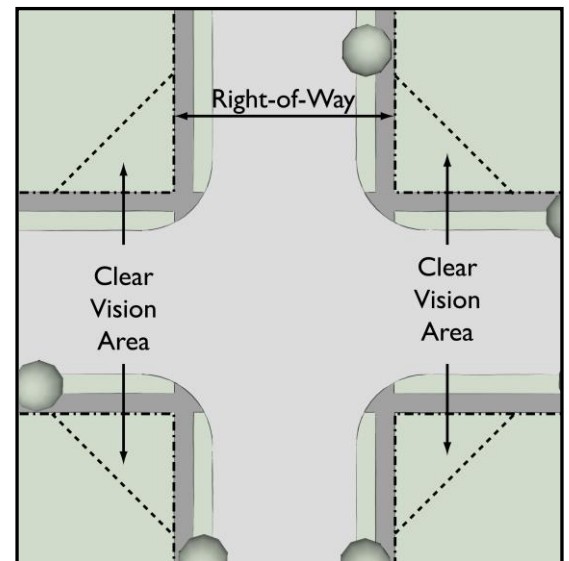
- A. Every main building or structure hereafter erected or moved shall have continuous minimum frontage equal to the required lot width of the zoning district on either a public street or an approved private street. All structures shall be located on lots to provide safe and convenient access for servicing, fire protection, and required off-street parking.
- B. No lot or parcel shall be created which is greater than four (4) times deeper in length than its width at the street frontage. The Planning Commission may allow the creation of a lot or parcel which does not comply with the lot depth-to-width maximum requirements of this section if a special land use is approved. In determining whether to grant this approval, the Planning Commission shall first find that the greater depth is necessitated by conditions of the land in question, such as topography, road access, soils, wetlands, or floodplain, and that creation or use of the lot will not conflict with other Township ordinances and regulations.
- C. For a lot abutting the end turnaround area of a cul-de-sac, the minimum street frontage will be 40 feet, provided the lot width meets the minimum requirements of the zoning district at the front setback line.

## **SECTION 2.05 MAIN BUILDING OR PRINCIPAL USE**

Each parcel shall contain only one (1) main building or principal use, except for groups of related commercial and office buildings contained within a single, integrated complex as demonstrated by shared parking, signs, access, and other similar features which, in the opinion of the Planning Commission, form a unified function and appearance.

## **SECTION 2.06 CLEAR VISION AT INTERSECTIONS**

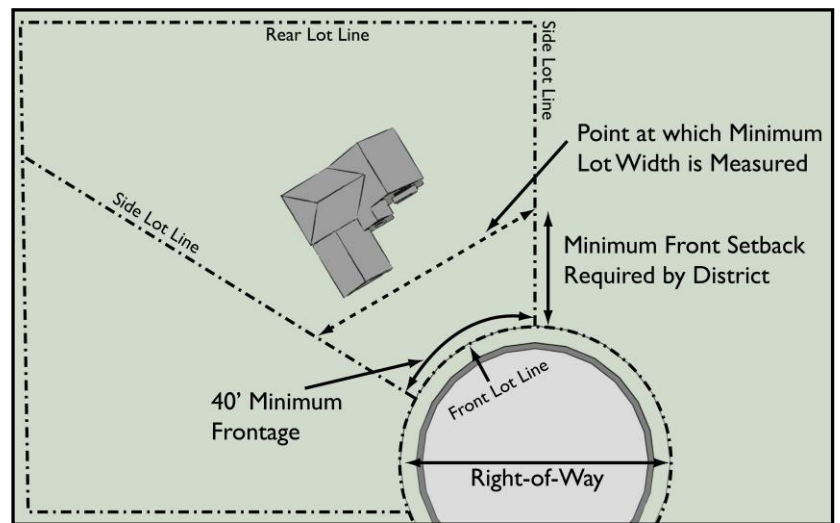
No solid fence, wall or planting screen between thirty (30) inches and eight (8) feet in height as measured from grade, shall be located within a clear vision triangle. This triangle is formed by the intersection of the street right-of-way lines. The clear vision triangle shall be twenty five (25) feet. See graphic.



## **SECTION 2.07 LOTS AND SETBACK MEASUREMENT**

- A. All newly created lots shall have sufficient buildable area to meet required setbacks and minimum lot size requirements of this Ordinance.

1. Front setbacks shall be measured from the street right-of-way line to the foundation of building.
  2. Rear setbacks shall be measured from the lot line to the foundation of the building.
  3. Side yard setbacks shall be measured from the drip line of the building.
- B. No portion of a lot can be used more than once in complying with the provisions for lot area and yard dimensions for construction or alteration of buildings.
- C. Waterfront lots – the yard immediately adjacent to the water shall be the front yard.
- D. Corner Lots - Each lot line abutting a public or private street shall be a front lot line, and the required setback along both lot frontages shall be a required front yard.
- E. Cul-de-Sac Lots - Cul-de-sacs are generally discouraged unless topography or other significant site limitations necessitate their use. Cul-de-sacs shall meet the minimum design standards of the County Road Commission. A cul-de-sac shall be determined to commence at the intersection of the radius of the cul-de-sac with the street right-of-way line. See graphic.



## **SECTION 2.08 HEIGHT EXCEPTIONS**

The height limitations contained in this Ordinance do not apply to silos, spires, belfries, cupolas, antennae (up to 30 feet high), chimneys, or other similar appurtenances usually required to be placed above the roof level of a structure.

## **SECTION 2.09 PROJECTIONS INTO YARDS**

Architectural elements attached to and necessary to the integrity of the building, or the health or safety of the occupants, such as ramps for the disabled, cornices, eaves, gutters, chimneys, pilasters, unenclosed steps and similar features shall be permitted to encroach upon the minimum setback requirements of this Ordinance, provided the projection is no more than five (5) feet.

## **SECTION 2.10    ACCESSORY BUILDINGS AND USES**

### General Requirements:

- A. An accessory building or structure is permitted on parcels without a principle/main structure with a minimum of 5 acres. The accessory building must not exceed 900 square feet and must be a minimum of 100 feet from all property lines including any public road or any neighboring properties. The accessory building without a principle structure may not be lived in or turned into a principle building without proper approval.
- B. Accessory buildings and structures that are customarily incidental and subordinate to an existing main building that are located on the same lot as the main use shall be permitted subject to the regulations of this Section.
- C. Attached accessory buildings and structures shall be made structurally part of the main building and shall conform to the district setback requirements of the main building.
- D. Detached accessory buildings and structures shall be a minimum of ten (10) feet from another building or structure (unless properly fire suppressed) or twenty (20) feet from any rear or side property line.
- E. Accessory building(s) shall not be erected in any required front yard or waterfront setback.
- F. No accessory building shall be used in any part for residential dwelling or sleeping purposes.
- G. No accessory building shall occupy any portion of a required greenbelt or buffer in any district.
- H. Freestanding solar panels shall be considered an accessory structure and shall meet all front, side, and rear yard requirements specified for accessory structures.
- I. Wireless communications antenna may be attached to a lawful existing telecommunications tower after the issuance of a zoning compliance permit.
- J. Amateur radio communication towers not exceeding 75 feet in height (wholly owned and used by a federally licensed amateur radio station operator) are permitted as an accessory use to the operator's dwelling. Structures shall be setback from all property lines equal to one-half the height of the structure.

## **SECTION 2.11    NONCOMMERCIAL WIND ENERGY CONVERSION SYSTEMS**

Noncommercial Wind Energy Conversion Systems are permitted in any zoning district with a zoning permit, provided:

- A. Units which are not mounted to a building that need a tower or monopole shall be setback from property lines a minimum distance equal to their height.
- B. Units affixed to a structure shall not extend more than twenty (20) feet above the roof line of the structure it is mounted to.
- C. The maximum height of a free-standing unit shall be eighty (80) feet, as measured from the ground at its base to the tip of the rotor blade in the upright position.
- D. The unit shall meet all building code requirements for such factors as wind load and snow load. Units shall be "UL" listed and a copy of the manufacturer's installation instructions in addition to the structural specifications for the unit and all supporting structures shall be provided to the Township. Plans may be required to be sealed by a structural engineer.
- E. Noise emanating from the operation of the unit shall not exceed fifty five (55) decibels, as measured on the DBA scale, measured at the nearest property line.
- F. The unit shall be equipped with both a manual and automatic braking device capable of stopping its operation in high winds, as established by the manufacturer.
- G. The unit shall not have affixed or attached to them any lights, reflectors, signs, flashers or any other illumination.

## **SECTION 2.12 WOOD FURNACE OR OUTDOOR WOOD STOVE**

Due to the nuisance smoke and concerns regarding the public safety and welfare of residents, outdoor wood furnaces are only permitted on lots of at least one (1) acre in size. The heating unit shall be set back a minimum of seventy five (75) feet from all property lines. If deemed a nuisance by the Zoning Administrator, the township may limit the use of outdoor wood stoves on individual properties.

## **SECTION 2.15 UNWHOLESOME SUBSTANCES**

No unwholesome substance, as defined in this section, shall be deposited, buried, stored, dumped or accumulated by any person in any body of water or on or under any land, private or public in the Township. An unwholesome substance includes any trash, garbage, tin cans, automobile body, inoperable vehicle, trailer body, hazardous compound, harmful substance, debris, waste, junk, rubbish, garbage, refuse, offal, trash; abandoned, discarded or unused objects, machinery or equipment such as furniture, stoves, refrigerators, freezers, cans, utensils, or containers; or other deleterious substance on the premises of private residences or properties, commercial institutions, and in the roadway creates blight and greatly increases danger of fire, and spread of infectious diseases.

## **SECTION 2.16 HOME OCCUPATIONS**

Home occupations are permitted in all zoning districts subject to the following conditions:

- A. Only members of the family residing in the home shall be engaged in connection with the home occupation.
- B. The use of the dwelling unit for the home occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupants, and not more than twenty-five percent (25%) of the floor area or five hundred (500) square feet of the dwelling unit, whichever is less, shall be used in the conduct of the home occupation.
- C. There shall be no change in the outside appearance of the building that would indicate the presence of a home occupation or depart from the residential character of the dwelling.
- D. There shall be no sale of products or services except as are produced on the premises or those products which may be directly related to and incidental to the home occupation.
- E. There shall be no outdoor, on-site storage of materials, equipment, or accessory items and/or display of materials, goods or supplies used in the conduct of the home occupation.
- F. The home occupation will not create traffic congestion, parking shortages, or otherwise adversely affect the pedestrian or vehicular circulation of the area.
- G. Any parking for vehicles associated with the home occupation shall be provided off the street.
- H. No equipment or process shall be used in the home occupation that creates noise, vibration, glare, fumes, odors, or electrical interference detectable to the normal senses off the premises. In the case of electrical interference, no equipment or process shall be used which creates visual or audible interference in any radio or television receivers off the premises or causes fluctuations in the line voltage off the premises.

## **SECTION 2.17 REGULATIONS APPLICABLE TO SINGLE FAMILY DWELLINGS OUTSIDE MANUFACTURED HOME PARKS**

Any one-family dwelling, whether constructed and erected on a lot, or a manufactured home outside a manufactured home park, may be permitted only if it complies with all of the following requirements:

- A. All dwelling units shall have a minimum living area of one thousand (1,000) square feet.
- B. The minimum width across any front, side, or rear architectural elevation shall be at least twenty four (24) continuous feet of exterior wall.
- C. The dwelling shall conform to the State Building Code and all other pertinent construction and fire codes. Where a dwelling is required by law to comply with any Federal or State standards or regulations for construction and where the standards allow standards of construction which are less stringent than those imposed by the Building Code, then the less stringent Federal or State standard or regulation shall apply. Additionally, all dwellings shall meet or exceed all applicable roof snow load and strength requirements.
- D. In the case of a manufactured home, all construction and all plumbing, electrical apparatus and insulation within and connected to the manufactured home shall be of a type and quality conforming to the "Mobile Home Construction and Safety Standards" as promulgated by the United States Department of Housing and Urban Development, being 24 CFR 3280, and as from time to time the standards may be amended.
- E. The dwelling shall be placed upon a slab. In the event that the dwelling is installed pursuant to the manufacturer's set-up instructions, the dwelling shall be secured to the premises by an anchoring system or device complying with the rules and regulations of the Michigan Manufactured Home Commission.

## **SECTION 2.18 TEMPORARY USES AND BUILDINGS**

- A. Temporary uses, buildings and structures, not used for dwelling purposes, may be placed on a lot or parcel and occupied only under the following conditions as authorized by a permit issued by the Zoning Administrator.
- B. The display and sale of cut Christmas trees on an open lot shall be allowed for a period not to exceed forty-five (45) days. No fresh cut tree sales shall be conducted from within a building. All unsold trees must be removed from the property by December 31<sup>st</sup> of each calendar year.
- C. Construction buildings and structures, including trailers, incidental to construction work on a lot, provided:
  - 1. Construction buildings and structures may only be used for the storage of construction materials, tools, supplies and equipment, for construction management and supervision offices, and for temporary on-site sanitation facilities, related to construction activity on the same lot. An enclosed structure for temporary sanitation facilities shall be required on all construction sites.



2. Construction buildings and structures shall be removed from the lot within fifteen (15) days after an occupancy permit is issued by the Zoning Administrator for the permanent structure on such lot, or within fifteen (15) days after the expiration of a building permit issued for construction on the lot.
- D. Flea Markets for up to three (3) days in duration.
- E. All temporary uses shall meet the following standards:
1. The nature of the temporary use and the size and placement of any temporary structure shall be planned so that the temporary use or structure will be compatible with existing development.
  2. The parcel shall be of sufficient size to adequately accommodate the temporary use or structure.
  3. The location of the temporary use or structure shall be such that adverse effects on surrounding properties will be minimal, particularly regarding the traffic generated by the temporary use or structure.
  4. Off-street parking areas are of adequate size for the particular temporary use or structure and properly located and the entrance and exit drives are laid out so as to prevent traffic hazards and nuisances.
  5. Signs shall conform to the provisions of this Ordinance.
  6. Any lighting shall be directed and controlled so as to not create a nuisance to neighboring property owners.

## **SECTION 2.19 STORAGE AND REPAIR OF VEHICLES**

- A. The carrying out of repair, restoration and maintenance procedures or projects on vehicles in any residential zoning district, when such work is not conducted entirely within the interior of a building, shall be subject to the following limitations:
1. The vehicles worked upon shall be owned by the resident.
  2. Procedures or projects exceeding forty-eight (48) hours in duration or which require the vehicle to be immobile or inoperable in excess of forty-eight (48) hours shall be carried out within a completely enclosed building.
  3. Inoperable or unlicensed vehicles and vehicle parts shall be stored in a completely enclosed building.

- B. In no case shall vehicles be parked in any required off-street parking lot for the sole purpose of displaying a vehicle for sale, except in approved and licensed car sales lots.

### **SECTION 2.20 KEEPING OF ANIMALS**

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

### **SECTION 2.21 MOVING OR RAZING OF BUILDINGS**

- A. The moving of a building to a different location, even if on the same lot, shall be considered the same as the erection of a new building and all provisions, regulations or requirements relative to the erection of a new building shall be applicable.
- B. No building shall be razed until a demolition permit has been issued by the Building Inspector and a zoning compliance permit has been issued by the Zoning Administrator. Permit issuance shall be subject to the razing of the building within a specified timeframe and compliance with all regulations pertaining to the removal of debris, the filling of excavations, and disconnections from existing utilities. An escrow deposit may be required to insure performance.

### **SECTION 2.22 GARAGE AND YARD SALES**

No garage or yard sale shall be held on a lot or property for more than fourteen (14) days in total per calendar year or for more than three (3) consecutive days.

### **SECTION 2.23 ESSENTIAL PUBLIC SERVICES**

The erection, construction, alteration or maintenance of essential public services shall be permitted in any zoning district.

#### **SECTION 2.24 HEALTH DEPARTMENT APPROVAL**

No permit shall be issued for the construction of a building, or placement of a single family home or recreational vehicle for more than 30 days per year unless a permit has been issued by the Newaygo County Health Department for private water supply and/or sewage disposal facilities.

#### **SECTION 2.25 SOLAR ENERGY SYSTEMS (SES)**

##### A. Roof-Mounted SES

1. **Height:** Roof-Mounted SES shall not exceed 5 feet above the finished roof and are exempt from any rooftop equipment or mechanical system screening.
2. **Nonconformities:** A Roof-Mounted SES or Building-Integrated SES installed on a nonconforming building, structure, or use shall not be considered an expansion of the nonconformity.
3. **Application:** All SES applications must include site plan. Applications for Roof-Mounted SES must include horizontal and vertical elevation drawings that show the location and height of the SES on the building and dimensions of the SES.

##### B. Accessory Ground-Mounted SES

1. **Height:** Ground-Mounted SES shall not exceed 15 feet measured from the ground to the top of system when oriented at maximum tilt.
2. **Setbacks:** A Ground-Mounted SES must be a minimum of 50 feet from the property line. Setback distance is measured from the property line to the closest point of the SES at minimum tilt.
3. **Lot or Parcel Coverage:** The area of the solar array shall not exceed 15% of the square footage of the parcel.
4. **Visibility (Residential):** A Ground-Mounted SES in residential districts (R-1) shall be located in the side or rear yard to minimize visual impacts from the public right-of-way(s). Ground-Mounted SES are allowed in front yard if they meet a 75' setback requirement.

- a. Ground-Mounted SES may be placed in the front yard with administrative approval, where the applicant can demonstrate that placement of the SES in the rear or side yard will:
  - i. Decrease the efficiency of the SES due to topography, accessory structures, or vegetative shading from the subject lot or parcel or adjoining lots or parcels.
  - ii. Interfere with septic system, accessory structures, or accessory uses; or
  - iii. Require the SES to be placed on the waterfront side of the building housing the primary use (where applicable).
- 5. **Exemptions:** A SES used to power a single device or specific piece of equipment such as a lawn ornament, lights, weather station, thermometer, clock, well pump or other similar device is exempt from Ground-Mounted SES provisions.
- 6. **Nonconformities:** A Ground-Mounted SES installed on a nonconforming lot or parcel or use shall not be considered an expansion of the nonconformity.
- 7. **Application:** All SES applications must include site plan. Applications for Roof-Mounted SES must include drawings that show the location of the system on the property, height, tilt features (if applicable), the primary structure, accessory structures, and setbacks to property lines. Accessory use applications that meet the ordinance requirements shall be granted administrative approval.

C. Building-Integrated SES

- 1. Building-Integrated SES are subject to zoning regulations applicable to the structure of building and not subject to accessory ground or roof-mounted SES permits.

D. Small Principal-Use SES

A Small Principal-Use SES is a permitted use in all zoning districts subject to site plan review and shall meet all of the following requirements:

- 1. **Height:** Total height shall not exceed 15 feet measured from the ground to the top of the system when oriented at maximum tilt.

2. **Setbacks:** Setback distance shall be measured from the property line or road right-of-way to the closest point of the solar array at minimum tilt or any SES components and as follows:
  - a. Ground-Mounted SES shall follow the setback distance for primary buildings or structures for the district in which it is sited.
  - b. A Ground-Mounted SES is not subject to property line setbacks for common property lines of two or more participating lots or parcels, except road right-of-way setback shall apply.
3. **Fencing:** A Small Principal-Use SES may be secured with perimeter fencing to restrict unauthorized access. If installed, perimeter fencing shall be a maximum of 7 feet in height. Barbed wire is prohibited. Fencing is not subject to setbacks.
4. **Screening/Landscaping:** A Small Principal-Use SES shall be designed to follow the screening and/or landscaping standards for the zoning district of the project site. Any required screening and landscaping shall be placed outside the perimeter fencing.
  - a. In districts that call for screening or landscaping along rear or side property lines, these shall only be required where an adjoining non-participating lot or parcel has an existing residential or public use.
  - b. When current zoning district screening and landscaping standards are determined to be inadequate based on a legitimate community purpose consistent with local government planning documents, the Planning Commission may require substitute screening consisting of native deciduous trees planted 30 feet on center, and native evergreen trees planted 15feet on center along existing non-participating residential uses.
  - c. The Planning Commission may reduce or waive screening requirements provided that any such adjustment is in keeping with the intent of the Ordinance and is appropriately documented (e.g. abutting participating lots or parcels; existing vegetation).
  - d. Screening/landscaping detail shall be submitted as part of the site plan that identifies the type and extent of screening for a Small Principal-Use SES, which may include plantings, strategic use of berms, and/or fencing.
5. **Ground Cover:** A small Principal-Use SES shall include the installation of perennial ground cover vegetation maintained for the duration of

operation until the site is decommissioned. The applicant shall include a ground cover vegetation establishment and management plan as part of site plan.

- a. An SES utilizing agrivoltaics is exempt from perennial ground cover requirements for the portion of the site employing the dual-use practice.
  - b. Project sites with majority existing impervious surface or those that are included in a brownfield plan adopted under the Brownfield Redevelopment Financing Act, PA 381 of 1996, as amended, are exempt from ground cover requirements. These sites must comply with the on-site stormwater requirements of the ordinance.
6. **Lot or Parcel Coverage:** The area of the Small Principal-Use SES solar array shall not exceed 15% of the square footage of the parcel and shall not count towards the impervious surface standards for the district.
  7. **Land Clearing:** Land disturbance or clearing shall be limited to what is minimally necessary for the installation and operation of the system and to ensure sufficient all-season access to the solar resource given the topography of the land. Topsoil distributed during site preparation (grading) on the property shall be retained on site.
  8. **Access Drives:** New access drives within the SES shall be designed to minimize the extent of soil disturbance, water runoff, and soil compaction on the premises. The use of geotextile fabrics and gravel placed on the surface of the existing soil for temporary roadways during the construction of the SES is permitted, provided that the geotextile fabrics and gravel are removed once the SES is in operation.
  9. **Wiring:** SES wiring (including communication lines) may be buried underground. Any above-ground wiring within the footprint of the SES shall not exceed the height of the solar array at maximum tilt.
  10. **Lighting:** Lighting shall be limited to inverter and/or substation locations only. Light fixtures shall have downlit shielding and be placed to keep light on-site and glare away from adjacent properties, bodies of water, and adjacent roadways. Flashing or intermittent lights are prohibited.
  11. **Signage:** An area up to 4 square feet may be used for signage at the property site. Any signage shall meet the setback, illumination, and materials/construction requirements of the zoning district for the project site.
  12. **Sound:** The sound pressure level of a Small Principal-Use SES and all ancillary solar equipment shall not exceed 45 dBa Leg (1-hour) at the

property line of an adjoining non-participating lot or parcel. The site plan shall include modeled sound isolines extending from the sound source to the property lines to demonstrate compliance with this standard.

**13.Repowering:** In addition to repairing or replacing SES components to maintain the system, a Small Principal-Use SES may at any time be repowered by reconfiguring, renovating, or replacing the SES to increase the power rating within the existing project footprint.

- a. A proposal to change the project footprint of an existing SES shall be considered a new application, subject to the ordinance standards at the time of the request. [Expenses for legal services and other studies resulting from an application to modify an SES will be reimbursed to Denver Township by the SES owner in compliance with established escrow policy.]

**14.Decommissioning:** Upon application, a decommissioning plan shall be submitted indicating the anticipated manner in which the project will be decommissioned, including a description of which above-grade and below-grade improvements will be removed, retained (e.g. access drive, fencing), or restored for viable reuse of the property consistent with the zoning district.

- a. An SES owner may at any time:
  - i. Proceed with the decommissioning plan approved by the Planning Commission and remove the system as indicated in the most recent approved plan; or
  - ii. Amend the decommissioning plan with Planning Commission approval and proceed according to the revised plan.
- b. Decommissioning an SES must commence when the soil is dry to prevent soil compaction and must be complete within 12 months after abandonment. An SES that has not produced electrical energy for 12 consecutive months shall prompt an abandonment hearing.

#### E. Large Principal-Use SES

A Large Principal-Use SES is a special land use in all zoning districts and shall meet the following requirements:

1. **Height:** Total height for a Principal-Use SES shall not exceed 20 feet.
2. **Setbacks:** Setback distance shall be measured from the property line or road right-of-way to the closest point of the solar array at minimum tilt or any SES components and as follows:

- a. In accordance with the setbacks for principal buildings or structures for the zoning district of the project site 250 feet from the property line of a non-participating lot or parcel.
  - b. 500 feet from any existing dwelling unit on a non-participating lot or parcel.
  - c. A Ground-Mounted SES is not subject to property line setbacks for common property lines of two or more participating lots or parcels, except road right-of-way setback shall apply.
3. **Fencing:** A Principal-Use SES may be secured with perimeter fencing to restrict unauthorized access. If installed, perimeter fencing shall be a maximum of 7 feet in height. Barbed wire is prohibited. Fencing is not subject to setbacks.
4. **Screening/Landscaping:** A Large Principal-Use SES shall follow the screening and/or landscaping standards for the zoning district of the project site. Any required screening and landscaping shall be placed outside the perimeter fencing.
- a. In districts that call for screening or landscaping along rear or side property lines, these shall only be required where an adjoining non-participating lot or parcel has an existing residential or public use.
  - b. When current zoning district screening and landscaping standards are determined to be inadequate based on a legitimate community purpose consistent with local government planning documents, the Planning Commission may require substitute screening consisting of native deciduous trees planted 30 feet on center, and native evergreen trees planted 15 feet on center along existing non-participating residential uses.
  - c. The Planning Commission may reduce or waive screening requirements provided that any such adjustment is in keeping with the intent of the Ordinance.
  - d. Screening/landscaping detail shall be submitted as part of the site plan that identifies the type and extent of screening for a Large Principal-Use SES, which may include plantings, strategic use of berms, and/or fencing.
5. **Ground Cover:** A Large Principal-Use SES shall include the installation of ground cover vegetation maintained for the duration of operation until the site is decommissioned. The applicant shall include a ground cover vegetation establishment and management plan as part of the site plan. Vegetation establishment must include invasive plant species (and



noxious weed, if local regulation applies) control. The following standards apply:

- a. Sights bound by a Farmland Development Rights (PA 116) Agreement must follow the Michigan Department of Agriculture and Rural Development's Policy for allowing Commercial Solar Panel Development on PA 116 Lands.
  - b. Ground Cover at sites not enrolled in PA 116 must meet one or more of the four types of Dual Use defined in this ordinance.
    - i. Pollinator Habitat: Solar sites designed to meet a score of 76 or more on the Michigan Pollinator Habitat Planning Scorecard for Solar Sites.
    - ii. Conservation Cover: Solar sites designed in consultation with conservation organizations that focus on restoring native plants, grasses, and prairie with the aim of protecting specific species (e.g., bird habitat) or providing specific ecosystem services (e.g., carbon sequestration, soil health).
    - iii. Forage: Solar sites that incorporate rotational livestock grazing and forage production as part of an overall vegetative maintenance plan.
    - iv. Agrivoltaics: Solar sites that combine raising crops for food, fiber, or fuel, and generating electricity within the project area to maximize land use. Project sites that are included in a brownfield plan adopted under the Brownfield Redevelopment Financing Act, PA 381 of 1996, as amended, that contain pervious surface at the time of construction or soils that cannot be disturbed, are exempt from ground cover requirements.
  - c. Project sites that are included in a brownfield plan adopted under the Brownfield Redevelopment Financing Act, PA 381 of 1996, as amended, that contain impervious surface at the time of construction or soils that cannot be disturbed, are exempt from ground cover requirements.
6. **Lot or Parcel Coverage:** The area of a Large Principal-Use SES solar array shall not exceed 15% of the square footage of the parcel and shall not count towards the impervious surface standards for the district.
7. **Land Clearing:** Land disturbance or clearing shall be limited to what is minimally necessary for the installation and operation of the system and

to ensure sufficient all-season access to the solar resource given the topography of the land. Topsoil distributed during site preparation (grading) on the property shall be retained on site.

8. **Access Drives:** New access drives within the SES shall be designed to minimize the extent of soil disturbance, water runoff, and soil compaction on the premises. The use of geotextile fabrics and gravel placed on the surface of the existing soil for the construction of temporary drives during the construction of the SES is permitted, provided that the geotextile fabrics and gravel are removed once the SES is in operation.
9. **Wiring:** SES wiring (including communication lines) may be buried underground. Any above-ground wiring within the footprint of the SES shall not exceed the height of the solar array at maximum tilt.
10. **Lighting:** Lighting shall be limited to inverter and/or substation locations only. Light fixtures shall have downlit shielding and be placed to keep light on-site and glare away from adjacent properties, bodies of water, and adjacent roadways. Flashing or intermittent lights are prohibited.
11. **Signage:** An area up to 4 square feet may be used for signage at the property site. Any signage shall meet the setback, illumination, and materials/construction requirements of the zoning district for the project site.
12. **Sound:** The sound pressure level of a Large Principal-Use SES and all ancillary solar equipment shall not exceed 45 dBa Leg (1-hour) at the property line of an adjoining non-participating lot or parcel. The site plan shall include modeled sound isolines extending from the sound source to the property lines to demonstrate compliance with this standard.
13. **Repowering:** In addition to repairing or replacing SES components to maintain the system, a Large Principal-Use SES may at any time be repowered by reconfiguring, renovating, or replacing the SES to increase the power rating within the existing project footprint.
  - a. A proposal to change the project footprint of an existing SES shall be considered a new application, subject to the ordinance standards at the time of the request. [Expenses for legal services and other studies resulting from an application to modify an SES will be reimbursed to Denver Township by the SES owner in compliance with established escrow policy.]

14. **Decommissioning:** A decommissioning plan is required at the time of application.

a. The decommission plan shall include:

- i. The anticipated manner in which the project will be decommissioned, including a description of which above-grade and below-grade improvements will be removed, retained (e.g. access drive, fencing), or restored for viable reuse of the property consistent with the zoning district,
- ii. The projected decommissioning costs for removal of the SES (net of salvage value in current dollars) and soil stabilization, less the amount of the surety bond posted with the State of Michigan for decommissioning of panels installed on PA 116 lands,
- iii. The method of ensuring that funds will be available for site decommissioning and stabilization (in the form of surety bond, irrevocable letter of credit, or cash deposit), and

b. A review of the amount of the performance guarantee based on inflation, salvage value, and current removal costs shall be completed every 5 years, for the life of the project, and approved by the Denver Township Board. An SES owner may at any time:

- i. Proceed with the decommissioning plan approved by the Planning Commission and remove the system as indicated in the most recent approved plan; or
- ii. Amend the decommissioning plan with Planning Commission approval and proceed according to the revised plan.

c. Decommissioning an SES must commence when the soil is dry to prevent soil compaction and must be complete within 18 months after abandonment. An SES that has not produced electrical energy for 12 consecutive months shall prompt an abandonment hearing.

## F. SITE PLANS

Site Plans and supporting application materials for a Principal-Use SES shall include a detailed site plan including all applicable requirements found in Chapter 12 - SITE PLAN REVIEW of this ordinance, except that site plans for large principal-use SES shall be submitted at a scale of 1" = 200 feet.

**SECTION 2.26    RESERVED**

**SECTION 2.27    RESERVED**

**SECTION 2.28    RESERVED**

## **CHAPTER 3 NONCONFORMITIES**

### **SECTION 3.01 INTENT**

It is recognized that there exists within Zoning Districts certain buildings and structures, uses, and lots which were lawful before this Ordinance was adopted, and which were legally established, but would be prohibited, regulated, or restricted under changes the regulations of this Ordinance. It is the intent of this Ordinance to permit non-conforming lots, buildings and structures, and uses to continue until they are removed, but not to encourage their survival.

Non-conforming lots, buildings, structures, and uses are declared by this Ordinance to be incompatible with the Districts in which they are located. It is the intent of this Ordinance that, unless otherwise permitted, nonconformities shall not be enlarged upon, expanded, or extended without proper approvals, nor be used as grounds for adding other buildings, structures or uses prohibited elsewhere in the District.

### **SECTION 3.02 GENERAL REQUIREMENTS**

- A. No structure or part thereof shall be constructed, erected, moved, placed, maintained, reconstructed, used, extended, enlarged or altered, except in conformity with the regulations herein specified for the Zoning District in which it is located.
- B. No use shall be established on any lot, land or premises except in conformity with the use regulations of the Zoning District in which it is located.
- C. No building shall be established on any lot, land or premises except in conformity with the regulations of the Zoning District in which it is located.
- D. Nothing in this Ordinance shall be deemed to require a change in the plans, construction, or designated use of any building for which a building permit was issued or on which actual construction was lawfully begun prior to the effective date of adoption or amendment of this Ordinance and upon which actual building construction has been diligently conducted. A building permit shall be valid only in the event that construction that is the subject of the permit commences within sixty (60) days after the date of issuance and shall be completed within one (1) year of the issuance date.
- E. The Township may acquire, through purchase or condemnation, non-conforming lots, uses, buildings and structures. The Township may take these actions in the manner provided for by law.

### **SECTION 3.03 NON-CONFORMING USES**

- A. If a non-conforming use is abandoned for any reason for a period of not less than twelve (12) months, any subsequent use shall conform to the requirements of this Ordinance.
- B. A non-conforming use shall be considered abandoned if one (1) or more of the following conditions exists, and shall be deemed to constitute intent on the part of the property owner to abandon the non-conforming use:
  - 1. Utilities, such as water, gas and electricity to the property, have been disconnected;
  - 2. The property, buildings, and grounds, have fallen into disrepair;
  - 3. Signs or other indications of the existence of the non-conforming use have been removed;
  - 4. Removal of equipment or fixtures that are necessary for the operation of the non-conforming use; or
  - 5. Other actions, which in the opinion of the Zoning Administrator constitute an intention on the part of the property owner or lessee to abandon the non-conforming use.
- C. Uses non-conforming solely because of height, area, parking or loading provisions may be expanded provided that the Zoning Administrator determines that all of the following occur:
  - 1. For the purposes of this subsection expansion shall include extension or enlargement of the use.
  - 2. All Zoning District Requirements are satisfied with respect to the expansion;
  - 3. The expansion shall not substantially extend the life of any non-conforming use by reason of parking and loading provisions; and
  - 4. The non-conforming use is made conforming or less non-conforming by the addition of parking and/or loading space. Thereafter any subsequent expansion of the non-conforming use or change in use will not be allowed if it requires even greater parking and/or loading space.
- D. A non-conforming use not addressed in subparagraph C, above, may be enlarged when authorized by the Zoning Board of Appeals, subject to the following provisions:

1. The enlargement, when permitted, shall not exceed twenty-five percent (25%) of the area of the area devoted to a non-conforming use at the effective date of this Ordinance, or amendment thereto.
  2. Any building used for the non-conforming use shall not be non-conforming or require a variance to effect the enlargement of the non-conforming use.
  3. That the expansion does not create, or make worse, any adverse effect on surrounding properties or the neighborhood.
  4. That the expansion does not intensify the use or unreasonably extend its probable duration.
- E. An existing nonconforming use may be changed to another nonconforming use provided that all of the following determinations are made by the Board of Appeals:
1. The proposed use shall be as compatible as or more compatible with the surrounding neighborhood than the previous nonconforming use.
  2. The proposed nonconforming use shall not be enlarged or increased, nor extended to occupy a greater area of land than the previous nonconforming use, except as may otherwise permitted by this Section.
  3. That appropriate conditions and safeguards are provided that will ensure compliance with the intent and purpose of this Ordinance.
  4. Once returned to a conforming use, the previous non-conforming use shall be considered abandoned and may not be reestablished. Subsequent uses shall conform to the requirements of the District.

### **SECTION 3.04 NON-CONFORMING BUILDINGS**

- A. Any building or structure existing and lawful at the time of enactment of the Zoning Ordinance, or amendments thereto, may be continued although the structure does not conform to the current provisions of the Zoning Ordinance.
- B. Repairs and maintenance work may be made as are required to keep a non-conforming building or structure in a sound condition.
- C. In the event fire, wind or an act of God or the public enemy damages any non-conforming building(s) or structure(s), it may be rebuilt or restored provided it meets the district provisions and the true cash value shall not exceed fifty percent (50%) of the state equalized value of the building or

structure after the rebuilding or restoration. The Building Inspector shall determine the cost of reconstruction.

- D. A non-conforming building shall not be expanded in any manner that increases its non-conforming condition. However, it may be expanded in other dimensions, provided that it is in conformance with this Ordinance.

### **SECTION 3.05 NON-CONFORMING LOTS**

- A. If a non-conforming lot has less than the minimum required area or width required for the Zoning District in which it is located, the area or width may be maintained, unless regulated by subparagraph 3, below, but shall not be made more non-conforming.
- B. Where a non-conforming commercial or industrial lot can provide the side and front yard requirements of its zone, the permitted uses of the District shall be allowed.
- C. Where a residential lot of record in existence at the time of the adoption or amendment of this Ordinance does not meet the minimum requirements for lot width or lot area, such lot of record may be used for any purposes permitted by the district in which the lot is located.
- D. If two (2) or more lots of record or combination of lots and portions of lots of record, in existence at the time of the passage of this Ordinance, or an amendment thereto, with continuous frontage and under single ownership do not meet the requirements established for lot width or lot area, the lands involved shall be considered to be an undivided parcel for the purposes of this Ordinance, and no portion of such parcel shall be used or divided in a manner which diminishes compliance with lot width and area requirements established by this Ordinance.
- E. Where two (2) or more non-conforming adjacent lots are in the same or similar ownership and each contain less than minimum required area or width of the Zoning District in which it is located, the lots shall be considered a single lot for zoning purposes. These lots may not be used individually but shall be combined to create a lot that conforms as closely as possible to the District regulations.
- F. A non-conforming lot may only be expanded if it is brought into closer conformity with the regulations specified for the Zoning District in which it is located.



**CHAPTER 4**  
**SITE CONDOMINIUMS AND LAND DIVISIONS**

**SECTION 4.01 SITE CONDOMINIUMS**

- A. A site condominium unit shall be a unit created by the division of land on the basis of condominium ownership that is not subject to the provisions of the Land Division Act, Public Act 288 of 1967, as amended.
- B. A site condominium unit shall be treated as a separate lot or parcel and may have buildings constructed and uses conducted thereon provided the unit meets the use and District Regulations for the zoning district in which it is located.
- C. A site plan, including all the condominium documents required for the establishment of a condominium, shall be reviewed and approved by the Planning Commission in accordance with Chapter 12.
- D. Monuments shall be set at all boundary corners and deflection points and at all street right-of-way intersection corner and deflection points. Lot irons shall be set at all condominium site corners and deflection points of condominium site lines.
- E. The Zoning Administrator and the Township Engineer may grant a delay in the setting of required monuments or irons for a reasonable time, but not to exceed one (1) year from the date of approval by the Township, on condition that the developer deposit with the Township Clerk cash, a certified check, or an irrevocable bank letter of credit running to Denver Township, whichever the developer selects, in an amount as determined from time to time by resolution of the Township.
- F. The deposit shall be returned to the developer upon receipt of a certificate by a surveyor registered in the State of Michigan that the monuments and irons have been set as required, within the time specified.
- G. If the developer defaults, the Township shall promptly engage a registered surveyor to set the monuments and irons in the ground as shown on the condominium site plan, at the developer's expense.
- H. All rights-of-way and utility easements shall be described separately from individual condominium sites and shall be accurately delineated by bearings and distances on the condominium subdivision plan and the final site plan.
- I. The rights-of-way and utility easements shall be separately designed for their individual purpose, such as access, roadway, location, installation, maintenance and replacing of public utilities.

- J. The developer shall dedicate to Denver Township easements for potential future utilities. Easements may be placed within public rights-of-way, subject to the approval of the Township Engineer.
- K. All streets proposed for any site condominium shall be developed within the minimum design, construction, inspection, approval, and maintenance requirements of Newaygo County Road Commission.

**SECTION 4.02 LAND DIVISIONS**

- A. No lot, parcel of land, or access easement shall be created that does not fully comply with the minimum area, width, frontage, and other minimum requirements of this ordinance. All land divisions, lot splits, or property boundary reconfiguration of platted lots and unplatted parcels of land shall comply with all applicable requirements of this Ordinance and the Michigan Land Division Act.

**CHAPTER 5  
ESTABLISHMENT OF DISTRICTS**

**SECTION 5.01 ESTABLISHMENT OF DISTRICTS**

For the purposes of this Ordinance, Denver Township is divided into the following zoning districts

RR	Rural Residential District
R-1	Residential
WR	White River and Floodplain Overlay District
C	General Business District
PUD	Planned Unit Development District
MHC	Manufactured Home Community District

**SECTION 5.02 OFFICIAL ZONING DISTRICTS MAP**

The boundaries of the zoning districts enumerated in Section 5.01 are hereby established as shown on the "Official Zoning Map, Denver Township," which accompanies this text; this map with all notations, references and other information shown thereon is hereby adopted by reference as a part of this Ordinance. One (1) copy of the Official Zoning Map shall be maintained and kept up to date by the Township Clerk, accessible to the public, and the final authority as to the current zoning status of all property in the Township.

**SECTION 5.03 INTERPRETATION OF DISTRICT BOUNDARIES**

If because of the scale, lack of details, or illegibility of the Official Zoning Map, there is any uncertainty, contradiction, or conflict regarding the intended location of any district boundaries shown on the map, interpretation concerning the exact location of district boundary lines shall be determined by the Zoning Board of Appeals upon written application.

In arriving at a decision, the Board shall apply the following standards:

- A. The boundaries of zoning districts are intended to follow centerlines of alleys, streets, other rights-of-way, or lot lines, or to be parallel or perpendicular thereto, unless the district boundary lines are otherwise clearly indicated on the Official Zoning Map.
- B. Where district boundaries are indicated to approximately follow lot of record lines, those lines shall be construed to be boundaries.
- C. Unless shown by dimension on the Official Zoning Map, where a district boundary divides a lot of record the location of the boundary shall be determined by use of the scale shown on the map.

- D. Where district boundaries are indicated as approximately following Township limits, they shall be construed as following the Township limits.
- E. A boundary indicated as following a shoreline shall be construed as following that shoreline, and in the event of a naturally occurring change in a shoreline, the boundary shall be construed as following the actual shoreline. A boundary indicated as following the centerline of a stream, river, or other body of water shall be construed as following that centerline.
- F. If a district boundary is indicated as being parallel to, or an extension of a feature described in this Section it shall be so construed.
- G. Where physical or natural features existing on the ground do not coincide with those shown on the Official Zoning Map or in other circumstances not covered in this Section the Zoning Board of Appeals shall determine the district boundaries.

#### **SECTION 5.04 USES NOT DESIGNATED**

- A. When a use or activity is not stated or specified in this Ordinance, the Zoning Administrator may either interpret the use or activity as being substantially similar to those allowed in the District or request the Zoning Board of Appeals to make a determination at its next regular meeting or at a special meeting called for that purpose. The Zoning Administrator or Board of Appeals, as applicable, shall also determine whether the use or activity is a special land use or a use permitted by right. An applicant may also petition the Township for an amendment to the Zoning Ordinance to address the use or activity being considered. If new ordinance language is necessary to address a use not otherwise classified in the ordinance, it has been determined to be an appropriate use for the township, and the township determines that there is a demonstrated need not otherwise reasonably accommodated in the region, then the Planning Commission shall develop the amendatory language to address the use or activity being considered.
- B. The Zoning Administrator or Board of Appeals, as applicable, shall base the decision on a finding that the proposed use:
  - 1. Is not specifically listed in any other District.
  - 2. Is generally consistent with the Intent of the District and this Ordinance, as well as the Master Plan.
  - 3. Will not impair the present or potential use of other properties within the same District or in the vicinity.
  - 4. Has no greater potential impact on surrounding properties than those listed in the District, in terms of aesthetics, traffic generated, noise,

potential nuisances, and other impacts related to health safety and welfare.

5. The proposed use or activity shall comply with the review and approval requirements and district regulations that apply to similar authorized uses

#### **SECTION 5.05 VACATED AREAS**

If a street or other public right-of-way within the Township is vacated by official governmental action and if the lands within the boundaries thereof attach to and become part of lands adjoining the street or public right-of-way, the lands involved shall automatically acquire and be subject to the same zoning regulations applicable to adjoining lands, and shall be governed by this Ordinance.

**CHAPTER 6  
RESIDENTIAL DISTRICTS**

**SECTION 6.01 INTENT AND PURPOSE**

The regulations of these Districts are intended to encourage suitable settings for low density, single-family residential development. The RR, Rural Residential District is designed to create clusters of quiet residential settings amongst dominant uses defined by recreational, forestry and agricultural practices. Residential uses in this district are intended not to conflict with recreational, forestry and agricultural uses.

The R-1 District is designed to permit higher residential densities near the Village, separate from agricultural and forestry uses. These areas may, at some point in the future, be provided with public services that are not available to more remote, lower density rural areas of the Township.

**SECTION 6.02 TABLE OF USES**

The following abbreviations apply to the Table of Uses for the; RR, Rural Residential and R-1, Residential districts:

P: Permitted Use: Land and/or buildings in this District may be used for the purposes listed by right.

SLU: Special Land Use: The following uses may be permitted by obtaining Special Land Use approval when all applicable standards cited in Chapter 13 are met.

NP: Not Permitted: The use is not permitted in the District.

<b>Table of Uses</b>	<b>RR</b>	<b>R-1</b>
Accessory structures and uses subject to Section 2.10	P	P
Non commercial wind energy conversion systems subject to Section 2.12	P	P
Home occupations subject to Section 2.16	P	P
Single family detached dwellings	P	P
Bed and breakfast establishment	SLU	SLU
Agri-tourism	SLU	SLU
Commercial greenhouses and nurseries	P	P
Commercial Wind Energy Conversion Systems (WECS)	SLU	SLU

<b>Table of Uses cont.</b>	<b>RR</b>	<b>R-1</b>
Cottage Industry	SLU	SLU
Farm Labor Housing	SLU	NP
Farm Markets	SLU	SLU
Farms for both general and specialized farming, together with farm dwelling and buildings and other installations useful to such farms, including roadside stands with less than two-hundred (200) square feet of sales area for produce grown on the premises.	P	P
Forestry Operation	P	P
Game or Hunting Preserve	SLU	NP
Group day care home	SLU	SLU
Home-based business	SLU	SLU
Intensive Livestock Operations	SLU	NP
Open Space Preservation Developments	SLU	SLU
Outdoor recreational uses including country clubs, campgrounds, golf courses, parks, and other similar uses, including related uses, such as snack bars, pro-shops and other similar uses integral to the main use	SLU	SLU
Removal and processing of topsoil, stone, rock, sand, gravel, lime or other soil or mineral resources	SLU	SLU
Riding Stable	SLU	SLU
Sawmill	NP	SLU
Shooting, rifle and handgun ranges	SLU	NP
State licensed residential facility <i>Large Group Home Care Facility</i>	NP	SLU
State licensed residential facility <i>Small Group Home Care Facility</i>	SLU	SLU
State licensed residential facility, <i>family care facility</i> , provided the facility shall not be within 1,500 feet of another State	P	P

licensed residential facility.		
Veterinary hospitals, animal clinics, and commercial kennels.	SLU	SLU
Wireless Communication Towers	SLU	SLU

**SECTION 6.03 LOT, YARD AND BUILDING REQUIREMENTS**

<b>Requirement</b>	<b>RR</b>	<b>R-1</b>
Minimum Lot Size	2 acres	1 acre
Minimum lot width & frontage	300 feet	200 feet
Lot width to depth ratio	1:4	1:4
Setbacks (Residential Uses)	Front: 75 ft. Waterfront: 100ft. Side: 40 ft. Rear: 50 ft.	Front: 50 ft. Waterfront: 100 ft. Side: 30 ft. Rear: 50 ft.
Maximum Height	35 ft.	35 ft.

**SECTION 6.04 PARKING REQUIRMENTS**

<b>Use</b>	<b>Parking Requirement Spaces per unit of measurement</b>
<b>Residential</b>	
Bed and breakfast establishment	2 plus 1 per guest room
Single family detached dwellings	2 per dwelling unit.
Family child day care homes	1 per each 3 children computed on the basis of the licensing limits of the facility
<b>Non-Residential</b>	
Campgrounds, public or private	2- 10'x30' spaces for every campsite.
Commercial greenhouses and nurseries, agri-tourism and cottage industries	1 space for each two hundred (200) sq. ft. of usable floor area, plus 1 space for each two thousand (2,000) sq. ft. of exterior sales area.
Commercial kennels	1 per four hundred (400) sq. ft. of gross floor area, but no fewer than four (4) spaces.
Family Day Care	1 per each 3 clients computed on the basis of the greatest number of clients on site at a given time in addition to those required for the residence.



Use	Parking Requirement Spaces per unit of measurement
Farm Labor Housing	1 per housing unit
Farm Market, Agri-tourism & Cottage Industry	1 space for each two hundred (200) sq. ft. of usable floor area, plus 1 space for each two thousand (2,000) sq. ft. of exterior activity and sales area.
Farms for both general and specialized farming, together with farm dwelling and buildings and other installations useful to such farms	One (1) space for each employee.
Home-based businesses	No more than 2 spaces associated with business vehicles
Horse riding stables, horse breeding stables	1 per each 2 stalls; parking spaces shall be sized to accommodate vehicles plus trailers
Intensive livestock operations	1 space for each service vehicle
Outdoor recreational uses, country clubs, campgrounds, golf courses, parks, and other similar uses, including related uses, such as snack bars, pro-shops and other similar uses integral to the main use.	2 per each hole for a par 3 course; 6 per hole for other courses <u>plus</u> those required for accessory uses as noted in the applicable districts
Removal and processing of topsoil, stone, rock, sand, gravel, lime or other soil or mineral resources.	One (1) space for each employee.
Shooting, rifle and handgun ranges	5 spaces, plus 1 space per target area.
Wind electricity generation	1 space for service vehicle
Wireless Communications Antenna when attached to a lawful existing telecommunications tower, water tower, or other structure	1 space for service vehicles plus 1 per truck.

**SECTION 6.05    PARKING LOCATION**

- A.    The off-street parking facilities required for single family and two family dwellings shall be located on the same lot as the building they are intended to serve. Parking is limited to the garage and driveway.
  
- B.    Parking areas for special land uses shall not be located in a required setback.

**CHAPTER 7  
COMMERCIAL DISTRICT**

**SECTION 7.01 INTENT AND PURPOSE**

The regulations of the C, General Commercial District is intended for community shopping needs. Managing access to individual properties will receive strong consideration during the review of individual sites. The use of combined drives, service drives, and well planned access points will be stressed. Efforts will be made to discourage the placement of loading areas, outside storage and other unattractive features in areas clearly visible from the roadway or from neighboring residential uses. Screening, landscaping and site design will be strongly considered when sites are developed to ensure they mesh well with adjacent residential uses. Commercial facilities are intended to be small scale in nature.

**SECTION 7.02 TABLE OF USES**

The following abbreviations apply to the Table of Uses:

P: Permitted Use: Land and/or buildings in this District may be used for the purposes listed by right.

SLU: Special Land Use: The following uses may be permitted by obtaining Special Land Use approval when all applicable standards cited in Chapter 13 are met.

NP: Not Permitted: The use is not permitted in the District.

<b>Table of Uses</b>	<b>C</b>
Accessory structures subject to Section 2.10	P
Art studio/craft shop	P
Bank or other financial institution without drive through facility	P
Banquet hall or catering establishment	P
Clinics	P
Commercial day care center	P
Commercial mini storage	SLU
Contractor’s office	P
Convenience store, with gasoline	SLU
Convenience store, without gasoline	P
Cottage Industry	P
Day Care Center	SLU

<b>Table of Uses, cont.</b>	<b>C</b>
Drive through -other than a restaurant (e.g., bank, pharmacy)	SLU
Fraternal or social club or lodge	P
Funeral Home or Mortuary	SLU
Health or exercise club	P
Hotel/motel	SLU
Junk or Salvage Yard	SLU
Kennel, commercial	SLU
Mortuary or funeral home	SLU
Open air business	SLU
Personal service establishment (e.g., salon, tailor, dry cleaning drop-off site, etc.)	P
Professional offices (e.g., attorneys, accountants and dentists)	P
Recreation facility, indoor (e.g., bowling, billiards)	SLU
Recreation facility, outdoor (e.g., golf course, campground)	SLU
Religious institutions	SLU
Restaurant with drive-through facility	SLU
Restaurant without drive-through facility	P
Retail establishments under 20,000 square feet GFA	P
Tavern or pub	P
Vehicle repair, facility	SLU
Vehicle sales	SLU
Vehicle service station	SLU
Veterinary clinic	P
Video rental and sales (except that video rentals are permitted as an accessory use when accessory to another retail use)	P
Wind Energy Conversion systems, commercial	SLU
Wireless communication tower	SLU
Wireless communications <u>antenna</u> when attached to a lawful existing telecommunications tower, water tower, or other structure, subject to overall height restrictions	P

**SECTION 7.03 LOT, YARD AND BUILDING REQUIREMENTS**

<b>Requirement</b>	<b>C</b>
Minimum Lot Area	1 acre
Minimum Lot Width	150 ft.
Lot Width to Depth Ratio	1:4
Maximum Lot Coverage	75%
Minimum Front Setback	50 feet
<b>Maximum</b> Front Setback	75 feet
Side Setback	25 ft.
Minimum Rear Setback	25 ft.
Maximum Height	35 ft.

**SECTION 7.04 PARKING REQUIREMENTS**

<b>Use</b>	<b>Parking Requirement Spaces per Unit of Measurement</b>  <b>GFA = gross floor area</b> <b>UFA = usable floor area</b>
Art studio/craft shop or cottage industry	1 space per 800 sq. ft. of GFA
Bank or other financial institution without drive-through facility	1 space per each 400 sq. ft. of GFA
Catering establishment	1 space for every 4 persons by occupancy permitted in the structure by fire code
Commercial day care center	1 space per each 3 clients computed on the basis of the greatest number of clients on site at a given time
Commercial mini storage	1 space for every storage unit (adjacent to the units) plus 1 for each employee
Contractor's office	1 space per each employee plus one per 400 sq. ft of UFA
Convenience stores	One space per 50 sq. ft. of GFA plus one per gas pump as applicable

<b>Use</b>	<b>Parking Requirement Spaces per Unit of Measurement</b>  <b>GFA = gross floor area</b> <b>UFA = usable floor area</b>
Fraternal or social club or lodge	1 space for every 4 persons by occupancy permitted in the structure by fire code
Health or exercise club	1 space for every 6 persons by occupancy permitted in the structure by fire code
Hotel/motel	2 spaces for employees, plus 1 for each guest room
Indoor theater	1 space per each 3 seats, plus 1 for each 2 employees
Kennel, commercial	1 space for each 400 sq. ft. of UFA
Medical office and Clinics	1 space per each 400 sq. ft. of GFA
Mortuary or funeral home	1 space per each 100 sq. ft. of UFA
Open air business	1 space per each 800 sq. ft. of lot area used of the open air business, plus parking for any main building and associated accessory uses
Personal service establishments	2 spaces per service provider
Indoor recreation facilities	1 space for every 3 persons by occupancy permitted in the structure by fire code
Professional office	1 space per each 400 sq. ft. of GFA
Recreation facility, outdoor	1 space per each 2 miniature golf holes, plus 2 per each batting cage, plus 1 per each 100 sq. ft. of GFA of arcade space
Religious Institutions	2 per each 5 seats based on the maximum seating capacity of the main place of assembly

<b>Use</b>	<b>Parking Requirement Spaces per Unit of Measurement</b>  <b>GFA = gross floor area</b> <b>UFA = usable floor area</b>
Restaurant without drive through facility	1 per 100 sq. ft. of floor space not used for seating area plus 1 for each employee area plus 1 space for each 3 persons allowed within the maximum occupancy load as established by applicable building or health codes for the area devoted to indoor seating
Retail building supplies and equipment store	1 space per each 300 sq. ft. of UFA
Retail establishments	1 space per each 300 sq. ft. of GFA
Tavern, with or without dancing, live entertainment or consumption of alcoholic beverages on premises	1 space for every 3 persons by occupancy permitted in the structure by fire code
Vehicle repair, minor and major	1 space per service bay plus 1 space per employee
Vehicle sales	1 per each 300 sq. ft. of GFA in the showroom/office, plus required spaces for accessory repair areas
Vehicle wash establishment	1 space per each 3 wash bays plus stacking as required by Chapter 13
Veterinary clinic	1 space for each 400 sq. ft. of UFA
Video rental and sales	1 for each 800 sq. ft. UFA plus 1 for each 2 employees
Wind Energy Conversion, commercial	1 space for service vehicles
Wireless communication tower	1 space for service vehicles

**SECTION 7.05    PARKING LOCATION**

- A. Off-street parking facilities in the C - District shall not be located in any required front yard.

**SECTION 7.06    DESIGN STANDARDS**

- A. Buildings shall possess architectural variety, but create an overall cohesive community character.

- B. Building and sign materials and colors shall relate well and be harmonious with the surrounding area. Subtle colors should be used for building, sign and roofing material.
- C. Site amenities may be required by the Planning Commission as part of site plan review and may include but not be limited to: bike racks, benches and trash receptacles.

**CHAPTER 8  
PLANNED UNIT DEVELOPMENT DISTRICT**

**SECTION 8.01 STATEMENT OF PURPOSE**

Any division that results in over four (4) parcels of land shall only be approved as a planned unit development.

The purpose of the PUD District is to permit coordinated development on sites in order to achieve the following:

- A. Permit flexibility in the regulation of land development allowing for higher quality of projects through innovation in land use, variety in design, layout, and type of structures constructed.
- B. Provide the opportunity to mix compatible uses or residential types.
- C. Allow clustering of residential units to preserve common open space, agriculture, forests or other natural features.
- D. Ensure compatibility of design and function between neighboring properties.
- E. Promote efficient provision of public services, utilities and transportation facilities.
- F. Provide convenient vehicular access throughout the development and minimize adverse traffic impacts and curb cuts.
- G. Provide complete non-motorized circulation to, from and within developments.
- H. Encourage development of convenient recreational facilities as an integral part of residential developments.
- I. Encourage development that is consistent with the goals stated within the Denver Township Master Plan.

These Planned Unit Development regulations are not intended to be used for circumventing the more specific standards and requirements of this Ordinance, or the planning upon which they are based. Rather, these provisions are intended to result in development that is substantially consistent with the zoning requirements as generally applied to the proposed uses, but with specific modifications that, in the judgment of the Township, assure a superior quality of development. If this improved quality is not clearly apparent upon Township review, a site shall not qualify for the modifications allowable under this Chapter.



## **SECTION 8.02 ELIGIBILITY CRITERIA**

- A. To be eligible for Planned Unit Development approval, the applicant shall demonstrate that all of the following criteria will be met:
1. The PUD shall provide one (1) or more of the following benefits:
    - a. Preservation of significant natural features.
    - b. Preservation of open space.
    - c. A complementary mixture of uses or a variety of housing types.
    - d. Common open space for passive or active recreational use.
  2. Landowners involved in a proposed Planned Unit Development shall provide a signed agreement among all involved parties, which is approved by the Township's attorney that indicates their agreement with the PUD development.
  3. When proposed construction is to be phased, the project shall be designed in a manner that allows a phase to fully function on its own regarding services, streets, utilities, circulation, facilities, and open space. Each phase shall contain the necessary components to ensure protection of natural resources and the health, safety, and welfare of users of the open space community and the residents of the surrounding area.

## **SECTION 8.03 TYPES OF PUDS**

An application meeting the eligibility criteria may be rezoned to a PUD District based on the requirements shown in the following table and appropriate requirements contained elsewhere in this Ordinance. The rezoning shall be concurrent with the approval of a preliminary PUD plan. The PUD designation shall be noted in the application and on the Official Zoning Map upon approval.

The Planning Commission shall make a recommendation to the Township Board, regarding a list of permitted uses that shall be finalized by the Board and incorporated as part of the PUD agreement, based upon the provisions of the following table and this Chapter.

<b>PUD DESCRIPTIONS</b>				
<b>PUD District</b>	<b>Minimum PUD Size</b>	<b>Locations Allowed</b>	<b>Permitted Uses</b>	<b>Percentage Open Space Required</b>
Residential (RPUD) Standards under Sec. 8.04	10 acres	Where pre-PUD zoning is a RR.	Residential uses permitted in the pre-PUD zoning district with additional uses as provided in this Chapter.	50%
Mixed Use (MPUD) Standards under Sec. 8.05	5 acres	Where pre-PUD zoning is R-1 Or C	Residential, commercial, office, recreational, and additional uses provided in this Chapter.	25%

**SECTION 8.04 RESIDENTIAL PUD (RPUD) STANDARDS**

- A. The purpose of the RPUD is to promote development which provides single-family housing opportunities in a clustered, rural setting. RPUD developments are intended to integrate natural features into site design and consider pedestrian and cyclist links among developments.
- B. To encourage flexibility and creativity consistent with the intent of the PUD, the Planning Commission shall determine appropriate lot dimensions and building and lot requirements. In no case, however, shall the overall lot dimensions or yard requirements be less than fifty percent (50%) of the Zoning District that the use(s) would be placed in without a PUD.
- C. The PUD may also include any Special Land Uses permitted in the underlying district. The list of allowed uses shall be established in the PUD agreement.

**SECTION 8.05 MIXED USE PUD (MPUD)**

- A. A Mixed Use PUD shall include a mixture of uses that are considered to be consistent with the Master Plan. A minimum of sixty percent (60%) of the PUD land area shall be occupied by residential or recreational uses. The list of uses allowed shall be established in the PUD approval.
- B. To encourage flexibility and creativity consistent with the intent of the PUD, the Planning Commission shall make a recommendation to the Township who shall determine appropriate lot dimensions and building and yard

requirements. In no case, however, shall the overall lot dimensions or yard requirements be less than fifty percent (50%) of the Zoning District that the use(s) would be placed in without a PUD.

### **SECTION 8.06 DESIGN STANDARDS FOR ALL PUDS**

1. Public dead-end or cul-de-sac streets are to be discouraged; however, they are acceptable on private streets where natural features would inhibit road connections. Eyebrow, court, or stub streets are preferred designs.
2. Where adjoining areas are not subdivided, the arrangement of streets within the proposed RPUD shall be required to be extended to the boundary line of the project to make provision for the future projection of streets into adjoining areas.
3. The Planning Commission may recommend and Township Board may require the development provide such amenities as school bus stops or turnouts and turn lanes.
4. Driveway access may be limited to one (1) major entrance along any major street, excluding any entrance designed solely for truck traffic. Additional access points shall only be considered if spaced at least five hundred (500) feet apart and a traffic impact study is provided that demonstrates overall traffic operations and safety will be improved.
5. Main access points shall be spaced from existing intersections to ensure proper spacing and efficient flow of traffic if the main access point might be signalized in the future.
6. Open space areas in the development shall adhere to Section 8.07.

### **SECTION 8.07 OPEN SPACE REQUIREMENTS FOR ALL PUDS**

- A. All PUDs shall meet the following requirements for open space.
  1. Designated open space shall be set aside through an irrevocable conveyance, approved by the Township Attorney, such as a recorded deed restriction, covenants that run perpetually with the land, a conservation easement, or dedication to a land trust. The dedicated open space shall forever remain open space, subject only to uses on the approved site plan. Further use of open space for other than recreation or conservation purposes, except for easements for utilities, shall be strictly prohibited. Any change in use of the open space from what is shown on the approved site plan shall require Township approval, and shall not diminish compliance with the requirements of this Chapter.

2. Nothing herein shall prevent the conveyance of open space to a public agency or other non-profit entity for recreational or conservation use.
3. The designated open space shall be of functional value as it relates to opportunities for wildlife habitat, woodland preservation, agricultural use, recreation, view protection, and access.
4. The open space and access to it shall be permanently marked and designed so individuals in the development are not forced to trespass to reach recreational or common open spaces.
5. The following land areas shall not be included as dedicated open space for the purposes of meeting minimum open space requirements:
  - a. Area proposed as residential lots.
  - b. The area of any street right-of-way or private street easement.
  - c. Surface water, detention or retention basins, unless designed to have the appearance of a natural wetland, in which case they may be counted for up to fifty percent (50%) of the required open space.
  - d. Parking and loading areas except those exclusively associated with a recreation facility or common open space area.
  - e. Any other undeveloped areas not meeting the intent and standards for open space stated in this Section, as determined by the Planning Commission.
6. On-site common open space shall be planned in locations visible and accessible to all in the development. The Planning Commission shall determine if the proposed open space is usable and functional. The common open space may either be centrally located, located to preserve natural features, located to buffer adjacent uses, or located to connect open spaces throughout the development, provided the following areas shall be included within the open space area:
  - a. Any significant natural features.
  - b. At least one-third (1/3) of the required common open space shall be usable open space for the residents of the development.
  - c. Open space, except for where trails and bike paths are located, shall have minimum dimensions of one hundred (100) feet on any side.

- d. Where an open space preservation development abuts a body of water, at least fifty percent (50%) of the shoreline, as well as reasonable access to it, shall be a part of the common open space land.
- e. Where adjacent land includes open space, public land or existing or planned trails, open space connections shall be provided between the site and adjacent open space. Trails between adjoining open space developments shall be constructed to allow future interconnection.

## **SECTION 8.08 PUD REVIEW PROCESS**

- A. Pre-Application Meeting
  - 1. An applicant for a Planned Unit Development may attend a pre-application meeting with staff members. This pre-application meeting shall not constitute a quorum of any Township board or commission.
  - 2. The purpose of the pre-application meeting is to determine general compliance with PUD eligibility and design requirements, and to identify issues of significance regarding the proposed application.
  - 3. If the applicant proceeds with the PUD application, a report on the findings of the pre-application meeting shall be forwarded to the Planning Commission by the Zoning Administrator.
- B. The applicant shall prepare and submit to the Township a request for rezoning to the appropriate PUD designation, including appropriate fees, seven (7) copies of a preliminary PUD site plan meeting the requirements of Chapter 12, including a narrative which details how the plan relates to the Intent and purpose of the PUD District, phases of development, and approximate time frames for each phase. Materials shall be submitted at least forty-five (45) days prior to the meeting at which the Planning Commission shall first review the request.
- C. During the PUD review process, the Zoning Administrator may recommend, and Township Board or Planning Commission may require additional information it determines is reasonably necessary to demonstrate compliance with the review standards of this Chapter. This information may include, but not be limited to, soil reports, hydrological tests, traffic studies or wetland determinations.
- D. In addition to the pre-application meeting, a workshop may be required by the Planning Commission, or, if not required, the workshop may be requested by the applicant to discuss the appropriateness of a PUD concept, solicit feedback and receive requests for additional materials supporting the proposal.

- E. The Planning Commission shall review the PUD rezoning request, the preliminary PUD site plan and conduct a public hearing in accordance with the requirements of the Zoning Act.
- F. The Planning Commission shall review the preliminary PUD site plan in consideration of public hearing comments, technical reviews from Township staff, and other comments from consultants and applicable review agencies, and compliance with the standards and requirements of this Ordinance. The Planning Commission shall make a recommendation to the Township Board to approve, approve with conditions, or deny the request.
- G. The recommendation to the Township Board shall be based on the following standards:
  - 1. The PUD shall satisfy the Statement of Purpose of Section 8.01 and the Eligibility Criteria of Section 8.02.
  - 2. The PUD shall be designed and constructed in a manner harmonious with the character of adjacent property and the surrounding area.
  - 3. The PUD shall be adequately served by essential public facilities and services, such as streets, police and fire protection, drainage systems, water supply and septic or sewage facilities.
  - 4. The proposed type and density of use shall not result in an unreasonable increase in the use of public services, public facilities, and utility capacities.
  - 5. The design of the PUD shall minimize the negative impact on the street system in consideration of items such as vehicle trip generation, access location and design, circulation, roadway capacity, traffic operations at proposed access points and nearby intersections.
  - 6. Natural features shall be preserved, insofar as practical, by removing only those areas of natural vegetation or making those alterations to the topography which are reasonably necessary to develop home sites.
  - 7. Natural drainage ways shall be preserved insofar as practical, by minimizing grading, tree and soil removal in and adjacent to natural drainage swales.
  - 8. Slopes of over fifteen percent (15%) are protected and maintained in a natural state.
  - 9. The proposed PUD shall not have an unacceptable significant adverse effect on the quality of the natural features in comparison to the impacts associated with a conventional development.

10. The proposed development shall not have an adverse impact on future development as proposed in the Master Plan of the Township.
  11. The proposed development shall not impede the continued use or development of surrounding properties for uses that are permitted in the Zoning Ordinance.
  12. The proposed development shall adequately consider pedestrian and cyclist safety and circulation, and tie paths and trails into public facilities and adjoining properties.
- H. Following receipt of the Planning Commission's recommendation, the preliminary PUD site plan shall be considered by the Township Board.
- I. If the application and associated site plan review packet is determined to be insufficient, does not fully respond to Planning Commission issues or more information is required, the Township Board may direct the applicant to prepare additional information, revise the PUD plan or direct the Township staff or consultants to conduct additional analysis. The application shall not be considered until the information has been submitted.
- J. If the Township Board believes there is new information that might modify the recommendation of the Planning Commission or if the Township Board does not follow the recommendation of the Planning Commission, the application shall be returned to the Commission with the new information for its reconsideration. The Planning Commission shall provide a new recommendation within thirty (30) days after the Township 's referral. No additional public hearings are required.
1. Approval or Approval with Conditions
    - a. Upon determination that a PUD site plan is in compliance with the standards and requirements of this Ordinance and other applicable Ordinances and laws, the Township Board shall approve the preliminary PUD site plan.
    - b. The Township Board may impose reasonable conditions with the approval of a PUD. Conditions of any approval are attached to the land and will remain through subsequent owners. If necessary, the applicant shall submit a revised PUD site plan that demonstrates compliance with the conditions.
    - c. Approval of the preliminary PUD plan shall constitute approval of the rezoning and the Zoning Map shall be changed to indicate the zoning of the property to the appropriate PUD District.
  2. Denial: Upon determination that a PUD site plan does not comply with standards and regulations set forth in this Ordinance, or requires

extensive revision in order to comply with the standards and regulations, the Township Board shall deny the application. Re-submittal of a denied application shall be considered a new application.

### **SECTION 8.09 FINAL APPROVAL**

- A. Final site plans shall be submitted for review and approval in accordance with the Site Plan Review provisions of this Ordinance. If final site plans for at least the first phase of the project are not submitted and approved within a two (2) year period from the approval of the rezoning, the right to develop under the approved PUD preliminary site plan shall terminate and a new application must be filed.
- B. In reviewing final site plans, the following standards and requirements shall apply:
  - 1. Final site plans shall be in substantial conformance with the approved PUD preliminary plan.
  - 2. Each final site plan shall either individually or in combination with previously approved contiguous project areas, meet the standards of this Chapter and the approved PUD preliminary plan regarding layout, density, open space and land use.
  - 3. Each final site plan submission shall include a map illustrating the site or phase in relation to previously approved plans and the overall PUD.
  - 4. Any requested amendment to the approved Agreement, as provided for in Section 8.12, shall be submitted for review by the Township Attorney and approved by the Township Board.

### **SECTION 8.10 EXTENSIONS**

The two (2) year period for preliminary PUD approval may be extended for one (1) year, if applied for in writing through the Zoning Administrator by the petitioner prior to the expiration of the PUD preliminary plan approval, and granted by the Township Board, provided that the reasons for the delay are beyond the general control of the applicant.

### **SECTION 8.11 REVISIONS TO APPROVED PUD PLANS**

- A. The Zoning Administrator may approve certain minor deviations when an applicant or land owner who was granted site plan approval notifies the Zoning Administrator of the proposed amendment to the approved site plan in writing, accompanied by a site plan illustrating the proposed change. The request shall be received prior to initiation of any construction in conflict with the approved plan.



- B. Within fourteen (14) days of receipt of a request to amend the site plan, the Zoning Administrator shall determine whether the change is major, warranting review by the Planning Commission, or minor, allowing administrative approval, as noted below.
- C. The Zoning Administrator may approve the proposed revision upon finding the change would not alter the approved design or provisions of the Agreement, would not reduce the area devoted to open space, and all applicable regulations of this Ordinance will be met. The Zoning Administrator shall inform the Planning Commission and Township Board of the approval in writing.
- D. The Zoning Administrator shall consider the following when determining a change to be minor:
  - 1. For residential buildings, the square footage of structures may be reduced or increased by ten percent (10%) of the originally approved area, provided the overall density of units does not increase, the minimum square footage and parking requirements are met, and the building(s) do not extend into any required open space or required setback.
  - 2. Gross floor area of non-residential buildings may be decreased; or increased by up to ten percent (10%) or two thousand (2,000) square feet, whichever is smaller, of the originally approved area, provided parking requirements are met and the building does not extend into any required open space or required setback.
  - 3. Floor plans may be changed if consistent with the character of the use.
  - 4. Relocation of a building by up to five (5) feet, if consistent with required setbacks, open space and other requirements.
  - 5. Height of buildings may be lowered.
  - 6. Designated woodlands or areas not to be disturbed may be increased.
  - 7. Plantings on the approved landscape plan may be replaced by similar types of landscaping on an equal or greater basis; any trees shown as preserved on the final site plan and subsequently lost during construction shall be replaced at the equivalency of a caliper-per-caliper basis on the site.
  - 8. Improvements or slight relocation of site access or circulation, such as inclusion of deceleration lanes or pedestrian/bicycle paths, where appropriate.

9. Changes of building materials to another of higher quality, or a slight change in the color of the exterior material, as determined by the Building Official.
  10. Grade change of up to two (2) feet, after review by the Township Engineer.
  11. Modification of entry design, sign placement or reduction in size of signs, which is consistent with the intent of the approved PUD plan.
  12. Internal rearrangement of parking lots which does not affect the number of parking spaces or alter access locations or design.
  13. Changes to the location of accessory buildings and structures, when the new location will be consistent with the building envelope identified on the approved plan.
  14. Changes required or requested by the Township, County or State for safety reasons.
- E. Where the Zoning Administrator determines that a requested amendment to the approved site plan is major, re-submittal to the Planning Commission shall be required. Should the Planning Commission determine that the modifications are inconsistent with the approved preliminary PUD plan; a new preliminary PUD site plan shall be submitted according to the procedures outlined in this Chapter as a new application and public hearing. In all cases, a change in use to a more intensive use than approved in the preliminary PUD plan shall be considered major and require submission of a new preliminary PUD Plan.
- F. Decisions granting PUD approval or any regulatory modifications are not subject to variance approval of the Zoning Board of Appeals. No part of a PUD may be appealed to the Zoning Board of Appeals nor shall an application for variance be accepted. This provision shall not preclude an individual lot owner from seeking a variance following final approval of the PUD, provided the variance does not involve alterations to open space areas as shown on the approved PUD site plan and otherwise meets the applicable review standards applicable to variances in this Ordinance.

### **SECTION 8.12 DEVELOPMENT AGREEMENT**

- A. Prior to any site preparation or the issuance of any zoning approval permit, the applicant shall submit a Development Agreement stating the conditions upon which approval is based, for review and approval by the Township. The Agreement, after review by the Planning Commission and approval by the Township Board, shall be entered into between the Township and the applicant and be recorded with the County Register of Deeds.

- B. At a minimum, the Development Agreement shall provide:
1. A certified boundary survey of the acreage comprising the proposed development.
  2. Proof of property control and the manner of ownership of the developed land and the manner of the ownership and of dedication common areas in additions to a mechanism to protect any designated common open areas.
  3. Satisfactory provisions to provide a performance guarantee for the future financing of any improvements shown on the plan for site improvements, open space areas and common areas which are to be included within the development.
  4. Provisions to ensure adequate protection of natural features.
  5. A copy of the approved preliminary PUD site plan signed by the applicant and the Township Supervisor or appointed designee.

**SECTION 8.13 PERFORMANCE GUARANTEES**

The Township Board may require a performance guarantee in accordance with Section 16.04 to insure compliance with the approved PUD.

**CHAPTER 9  
WATER AND FLOODPLAIN OVERLAY**

**SECTION 9.01 STATEMENT OF PURPOSE**

It is the purpose of this Chapter to significantly reduce hazards to persons and damage to property as a result of flood conditions in Denver Township and to retain the storm water retention capabilities of existing natural systems helping to prevent the need for significant public investment for man-made drainage systems.

It is further the intent of this district to preserve the high quality of surface water in the township and the Natural River designation and trout stream status of the White River and its tributaries and to implement the objectives of the White River Natural River Plan, as approved by the Natural Resources Commission and as is supported by the Denver Township Master Plan.

**SECTION 9.02 DESIGNATION OF THE FLOOD PLAIN OVERLAY DISTRICT**

- A. The Flood Plain Overlay District shall overlay existing Zoning Districts delineated on the Official Denver Township Zoning Map. The boundaries of the Flood Plain Overlay District shall be one thousand (1,000) feet from the ordinary high water mark of the White River and five hundred (500) feet from the edge of any creek or county drain easement. The term Flood Plain as used in this Ordinance shall mean the Flood Plain Overlay District and shall be the designated regulatory flood plain.
  
- B. When a development approval is requested for any use requiring site plan review (e.g., planned unit development or site condominium), the location of the Flood Plain Overlay District boundary shall be determined as follows:
  - 1. The Township shall be provided with accurate topographic data for the site in addition to information addressing storm water storage and flooding potential of the area. The submitted information shall be sealed by a registered civil engineer.
  
  - 2. The Township engineer shall advise the Township regarding the submitted site information and whether or not relocating the district boundary on the piece of property will negatively affect flooding and storm water storage potential on the subject property or for upstream and downstream properties.
  
  - 3. In addition to other requirements of this Ordinance applicable to development in the underlying Zoning District, compliance with the requirements of this Chapter shall be necessary for all development occurring within the Flood Plain Overlay District. Conflicts between the requirements of this Chapter and other requirements of this Ordinance or any other Ordinance shall be resolved in favor of this Chapter, except where the conflicting requirement is more stringent and would

further the objectives of this Chapter. In such cases the more stringent requirement shall be applied.

### **SECTION 9.03 DELINEATION OF THE NATURAL RIVER OVERLAY DISTRICT**

The White River Overlay is hereby designated on all lands lying between the river's edge and a line, each point of which is four hundred (400) feet horizontal from and perpendicular to the river's edge. The River's edge shall be defined as the ordinary high water mark. The area affected shall include the White River and Martin and Mena Creek, and the East and West Branches of Held Creek, and Wrights Creek.

### **SECTION 9.04 PERMITTED PRINCIPAL USES IN THE FLOODPLAIN**

Notwithstanding any other provisions of this Ordinance, no building or structure shall be erected, converted or structurally altered, and no land and/or structure shall be used in the regulatory flood plain except for one or more of the following uses:

- A. Small scale gardening and horticulture associated with a single family home. Large scale farming and keeping of livestock is prohibited within a designated floodplain.
- B. Open recreational uses such as parks, playgrounds, playfields, athletic fields, golf courses, bridle paths and nature paths;
- C. In the area within Floodplain Overlay, land may be used to supply open space or lot area requirements of a lot partially located outside, provided, however, no building or structure shall be located within the Overlay.

### **SECTION 9.05 PERMITTED PRINCIPAL USES IN THE WHITE RIVER OVERLAY**

- A. Single family homes and customary accessory uses provided:
  - 1. Any dwelling or accessory building shall be setback a minimum of one hundred (100) feet from the ordinary high water mark.
  - 2. Any portion of a septic system, including drainage tiles, shall also be setback a minimum of one hundred (100) feet from the ordinary high water mark and at least four (4) feet above the high water table.
  - 3. A natural vegetation, restricted cutting strip of at least one hundred (100) feet shall be maintained on each side of the mainstream of the White River and fifty (50) feet shall be maintained on designated tributaries.

## **SECTION 9.06 SPECIAL LAND USES IN BOTH DISTRICTS**

- A. Water-dependent businesses like kayaking or small boat rental.

## **SECTION 9.07 USES REQUIRING SPECIAL LAND USE PERMIT**

The following uses are permitted in the Floodplain Overlay District when approved as a special land use pursuant to the procedures described herein and as provided in Chapter 13 (Special Land Uses):

- A. In the area within the Floodplain District, dumping or backfilling with any material in any manner is prohibited unless through compensating excavation and shaping of the flood plain, the flow and impoundment capacity of the flood plain will be maintained or improved, and unless all applicable state regulations are met.
- B. In the area within the Floodplain District, the construction or location of bridges, outdoor play equipment, bleachers and similar outdoor equipment and appurtenances is prohibited unless such elements would not cause an increase in water surface elevation, obstruct flow or reduce impoundment capacity of the flood plain. In addition, all equipment shall be anchored to prevent flotation and lateral movement. Approval of a Special Use Permit for any of the above shall be subject to an engineering finding by a registered engineer that the above requirements are satisfied.

## **SECTION 9.08 OFF-STREET PARKING AND LOADING**

See parking requirements of the respective uses in the underlying zoning district.

## **SECTION 9.09 SIGNS**

See sign regulations of the respective uses in the underlying zoning district.

## **SECTION 9.10 ALTERATION OF WATERCOURSES**

No alteration of any watercourse in the Flood Plain District shall be undertaken unless and until neighboring communities and the Michigan Department of Natural Resources shall have first been notified and provided with detailed plans and specifications prepared by a registered engineer. Such plans shall show full compliance with local Ordinances, state statutes, state regulatory agencies and federal regulations and shall make provisions for maintaining the full carrying capacity of the altered water course.

## **SECTION 9.11 DISCLAIMER OF LIABILITY**

The degree of flood protection required by this Ordinance is considered reasonable for regulatory purposes. Approval of the use of land under this Chapter shall not be considered a guarantee or warranty of safety from flood damage. This Ordinance

does not imply that areas outside the Floodplain Overlay will be free from flood damage. This Ordinance does not create liability on the part of Denver Township or any officer or employees thereof for any flood damages that result from reliance on this Ordinance or any administrative decision lawfully made.

**CHAPTER 10  
MANUFACTURED HOME COMMUNITY**

**SECTION 10.01 INTENT AND PURPOSE**

The purpose of this District is to allow for the establishment of manufactured home communities and related accessory uses. A manufactured home community shall comply with all applicable procedures and requirements of the Manufactured Home Commission Act, 419 of 1976, as amended, and the Michigan Administrative Code.

**SECTION 10.02 TABLE OF USES**

The following abbreviations apply to the Table of Uses for the MHD District:

P: Permitted Use: Land and/or buildings in this District may be used for the purposes listed by right.

SLU: Special Land Use: The following uses may be permitted by obtaining Special Land Use approval when all applicable standards cited in Chapter 13 are met.

<b>Table of Uses</b>	<b>R-3</b>
Accessory structures and uses as defined in Chapter 17 and subject to Section 2.10	P
Convalescent or nursing home	SLU
Elementary, middle and secondary schools (private)	SLU
Home occupations subject to Section 2.16	P
Manufactured home community	P
Parks, playgrounds and community centers	P
Places of religious worship	SLU
Public and utility service buildings	SLU
Utility substations, transmission lines and switching stations	SLU
Wireless communication towers	SLU
Wireless communications antenna when attached to a lawful existing telecommunications tower, water tower, or other existing structure, subject to District height restrictions	P



**SECTION 10.03 DEVELOPMENT REQUIREMENTS**

Application and Review Requirements. Application and review requirements for the MDH District shall be the same as those required for Site Plan Review in Chapter 12. No application shall be accepted unless in compliance with all of the following requirements, unless specifically waived by the Zoning Administrator.

**SECTION 10.04 LOT, YARD AND BUILDING REQUIREMENTS**

Regulation		Individual Manufactured Home Sites*
Manufactured Home Site	Area/Dwelling Unit	5,000 sq. ft.
	Width (ft.)	40 ft.
Setback Requirements	Front Yard	50 ft. for the park, 5 ft. for individual sites
	Side Yard (1/total of 2)	50 ft. for the park, 10/30 for individual sites
	Rear Yard	50 ft. for the park, 15 ft. for individual sites
Building Requirements	Maximum Building Height (Stories/ft.)	2/35 for community buildings; 1/15 for dwellings and all other buildings
	Minimum Floor Area Per Dwelling Unit	980 sq. ft.

\*All other uses shall have a minimum front and rear yard setback of forty (40) feet and side yard setbacks of twenty (20) feet.

**SECTION 10.05 PARKING REQUIREMENTS**

- A. Location of parking
  - 1. Manufactured Home Community: The off-street parking facilities required for a single home site shall be located on the same lot as the dwelling unit they are intended to serve. Parking is limited to the garage/carport and driveway only. Required parking spaces provided for visitors shall be evenly distributed throughout the development.
  - 2. Non-residential Uses: The off-street parking facilities required for non-residential uses shall not be located in the required front yard area. The respective side and rear yard setback common to an adjacent Residential District or use shall be a minimum of thirty (30) feet of which ten (10) feet nearest the respective property line shall be developed as a buffer strip in accordance with Section 11.04. The

buffer strip shall extend the entire depth of the side of the lot in the case of the side yard parking adjoining the Residential District or use, or the width of the rear of the lot in the case of rear yard parking adjoining the Residential District or use. The required buffer strip shall incorporate a minimum six (6) foot high vertical screen.

B. The amount of required off-street parking spaces for individual uses shall be determined in accordance with the following table.

<b>Use</b>	<b>Parking Requirement Spaces per Unit of Measurement</b>
<b>Residential</b>	
Elementary, middle and secondary school, private	4 per classroom or amount required for the auditorium or place of assembly, whichever is greater; separate areas for student drop off and pickup areas for buses shall be provided
Manufactured home community	2 spaces per manufactured home site, plus 1 space per each 5 home sites for use of visitors, plus 1 space for each 300 sq. ft. UFA in the office area
Convalescent homes, nursing homes	1 per each 3 beds or 2 rooms, plus 10 spaces marked for visitors
Park, playground and community center	10 per each athletic field, plus 1 per each 10 sq. ft. of indoor or outdoor play area
Places of religious worship	2 per each 5 seats based on the maximum seating capacity of the main place of assembly up to 2,500 persons
Wireless communications tower	1 space per tower

**CHAPTER 11  
DEVELOPMENT STANDARDS**

**SECTION 11.01 ACCESS MANAGEMENT OVERLAY REGULATIONS (M-120 and M-20)**

The purposes of access management overlay regulations are to coordinate access to M-120 and M-20 in the interest of enhancing traffic safety, reducing congestion, maintaining traffic capacity, and minimizing highway expansion while providing continuing opportunities for growth and development within these highway corridors. It is the intent of this Ordinance that land uses share access, provide cross access or alternative access wherever possible or provide alternative access as means to accomplish these purposes.

The following regulations shall be applicable to all lots abutting on M-120 and M-20 in the Township. No building shall be erected or enlarged, no use shall be changed and no access shall be constructed or altered except in conformance with the following access management regulations, however, the enlargement of an existing one-family dwelling shall not require conformance with these regulations.

- A. Access Spacing. The minimum horizontal distance between any two accesses on the same side of the road, whether streets or driveways, as measured from their centerlines, shall be 275 feet. This spacing requirement shall apply to all uses and may be accomplished by any of the following means:
1. By owning sufficient frontage on the highway to meet the spacing requirement; or
  2. By assembling sufficient frontage to meet the spacing requirement; or
  3. By sharing access via shared driveways, easements and/or cross access agreements, or
  4. In the event the access spacing standards cannot be satisfied on an individual parcel due to frontage deficiencies, one temporary private driveway may be approved, provided an access management plan is submitted by the applicant, and approved by the Planning Commission, that incorporates the principles of shared driveways, cross easements, or alternative access and, further provided, said access design is approved by the Michigan Department of Transportation and/or County Road Commission, whichever has a higher standard. Individual single-family dwellings not part of a development shall not be required to have an access management plan.
- B. Residential Access. No new private residential driveway access shall be permitted directly to the road unless no other alternative is available.

Wherever two or more residential lots are created which have no alternative access, a single shared driveway or private road access shall be required.

- C. Existing Individual Driveways. If a lot or use has one or more existing individual driveway accesses to the Highway, said accesses shall be allowed to remain in use provided they are not relocated or altered. In the event such accesses are altered, they shall be made to more fully comply with the access requirements of this Section.
- D. Access Design and Approval. The design of any direct access to the Highway shall be as required and approved by the Michigan Department of Transportation. The requirements of this Section shall supersede the issuance of a driveway permit by the Michigan Department of Transportation.
- E. Flexibility Allowed. As part of the site plan review process, the actual location of an access may be varied by the Planning Commission if it can be demonstrated that the intent of this Section to minimize the number of individual driveways and coordinate accesses is fulfilled in the interests of maintaining highway capacity, reducing congestion, and improving traffic safety.

**SECTION 11.02 PRIVATE STREETS**

Private Road Review and Development Process:

- A. Private streets are permitted in all zoning districts subject to the design, construction, and maintenance standards of this Section.
- B. Private streets shall serve no more than fifteen (15) dwelling units.
- C. Private streets shall be approved by the Planning Commission through the site plan review process and shall include construction specifications for the street.
- D. Design Standards for private roads shall meet the standards of the following table:

<b>Lots Served</b>	<b>2 or 3</b>	<b>4 - 15</b>
Right of Way width	66 ft.	66 ft.
Width of traveled surface (centered within ROW)	12 ft.	22 ft.
Graded width	18 ft.	30 ft.
Base	NA	Minimum, 4 inches of 98% compacted MDOT 22A aggregate
Maximum grade	7%	7%

- E. Any lot created with frontage on both a public road and private road shall take driveway access off the private road.
- F. Regulation Michigan State Highway stop signs shall be positioned and installed in accordance with the Michigan State Manual of Uniform Traffic Control Devices on all private streets.
- G. The private road shall be constructed with such storm water runoff, culverts, and drainage contours as is required by the Township to ensure adequate drainage and runoff.
- H. Private Streets in excess of two hundred (200) feet in length shall provide a turn-around or turn-out area for emergency vehicle access.
- I. Utility easements shall be provided as part of the private road approval process.
- J. The private road shall be given a name and road signs shall be installed in accordance with the standards and approval of the Township. Private roads shall have a standard stop sign where the private road abuts any public road and/or where two or more private roads abut.
- K. The method and construction technique to be used in the crossing of any natural stream, wetland, or drainage course shall satisfy the requirements of the Township Engineer and any other agency having jurisdiction thereof.
- L. Cul-de-sac or dead end roads are strongly discouraged.
- M. Dwelling addresses shall be posted in a conspicuous place at the drive entrance of each parcel and at the entrance of the private road.
- N. All private roads shall have names approved by the proper County office.
- O. All private roads shall be under the control of an approved and recorded road maintenance agreement and deed restrictions which provide for the perpetual maintenance of such roads and/or easements to a necessary and reasonable standard to serve the several interests involved. These documents shall be subject to review and approval by the Township Attorney and shall contain the following provisions:
  - 1. Method of initiating and financing of such road and/or easements in order to keep the road in a reasonably good and usable condition.
  - 2. A workable method of apportioning the costs of maintenance and improvements.

3. An authorization that if repairs and maintenance are not made, the Township Board may exercise a special assessment district to bring the road up to the design standards specified in this Ordinance and assess owners of parcels on the private road for the improvements, plus an administrative fee.
  4. A notice that no public funds of the County or Township are to be used to build, repair or maintain the private road unless the special assessment district is created.
- P. All private roads shall be continuously maintained in a way that they are readily accessible to and usable by emergency vehicles in all types of weather.

**SECTION 11.03 DUMPSTERS AND SITE LIGHTING FOR DEVELOPMENTS REQUIRING SITE PLAN REVIEW**

A. Dumpsters

1. A solid, ornamental screening wall or fence shall be provided around all sides of the containers. An access gate shall also be provided and be of the height that completely screens the containers. The maximum height of walls, fence or gate shall be six (6) feet.
2. The container or containers, the screening walls, fence and gate shall be maintained in a neat and orderly manner, free from loose rubbish, wastepaper and other debris.

B. Site Lighting

1. Lighting provided for security or visibility on any site shall be shielded to reduce glare and shall be so arranged and maintained as to direct the light away from any residential use.
2. Light fixtures shall be no higher than thirty (30) feet and shall be provided with light cut-off fixtures that direct light downward.
3. Lighting attached to buildings or other structures shall not permit light to be directed horizontally.
4. Lights used for canopies for uses such as vehicle service stations, drive-in establishments and other similar uses shall be completely recessed in the canopy structure and shall not extend lower than the underside surface of the canopy.

**SECTION 11.04 GREENBELTS, BUFFERS AND LANDSCAPING FOR DEVELOPMENTS REQUIRING SITE PLAN REVIEW**

- A. It is the intent of this ordinance to protect existing site vegetation as a means of retaining community character. Significant site vegetation, including landmark trees shall be protected as much as practical and noted for protection on the site plan. If existing plant material is labeled "to remain" on a site plan by the applicant or is required by the Township, protective techniques, such as, but not limited to, fencing or barriers placed at the drip line around the perimeter of the plant material shall be installed prior to grading and construction activities. No vehicle or other construction equipment shall be parked or stored within the drip line of any plant material intended to be saved.
- B. The purpose of greenbelts is to provide physical and visual separation between potentially incompatible uses.
- C. A required greenbelt shall be a strip at least fifteen (15) feet in width. The greenbelt shall have a minimum of (1) evergreen tree, of at least five (5) feet in height for every ten (10) feet of length of the greenbelt. The greenbelt shall be situated to provide an effective sound and visual permanent buffer. Protected vegetation may be considered in lieu of the evergreen quota. The Planning Commission may alter plant material requirements or may require additional landscaping, berming, wall or a stockade fence in addition to the greenbelt area, in order to provide an effective screen.
- D. Greenbelt and landscaping materials shall contain groundcover and live materials. Pavement gravel or other hard surfaces are not considered landscaping.
- E. Any plant materials required as part of the greenbelt which die shall be replaced by the property owner.
- F. The Township may require a performance guarantee, per Section 16.04, to ensure the installation of required landscaping.
- G. For commercial uses the required front yard shall have a minimum of one (1) canopy tree of at least 1 ½ inches in diameter 4-feet off the ground for every ten (10) feet of frontage.
- H. Ornamentals, shrubbery and perennials shall also be creatively placed in setbacks (including the side and rear setbacks) to accentuate the site (not necessarily to serve as a buffer). Landscaping should be placed to:
  - 1. Define cross-access easements, pedestrian ways and outdoor amenities like seating.

2. Serve as windbreaks where warranted.
  3. Provide shade for parking areas.
  4. Break up large expanses of building walls without windows.
  5. Provide for long term viability (for example, so as not to block the view of on-site signs in the future).
  6. Shall not be considered a noxious or nuisance species by the U. S. Department of Agriculture or the State of Michigan.
- I. The owner or occupant of property that is required to be landscaped by this Ordinance shall maintain such landscaping in a reasonably healthy condition, free from refuse and debris. All unhealthy and dead material shall be replaced.

**SECTION 11.05 PARKING LOT REQUIREMENTS FOR DEVELOPMENTS REQUIRING SITE PLAN REVIEW**

- A. All parking facilities, access driveways, and business areas shall be constructed of a durable and material consistent with the adjoining road, or a more durable surface. Such facilities shall be graded and drained so as to dispose of surface water which might accumulate within or upon such area, and shall be completely constructed prior to a Certificate of Occupancy being issued, unless a performance guarantee has been submitted in accordance with the procedures of Section 16.04.
- B. When a non-residential parking lot is situated on a parcel which adjoins, or is directly across a roadway from a Residential District, the parking lot shall be set back twenty-five (25) feet, excluding any drives, from the property line or right-of way line, unless a greater setback is required by any other provision of this Ordinance. Such yard shall contain a greenbelt, as specified in Section 11.04, abutting the parking lot and designed to effectively screen the parking from neighboring residential districts and uses.
- C. Adequate ingress and egress to the parking lot, by means of limited and clearly defined drives, shall be provided for all vehicles. Such drives shall be located so as to minimize traffic conflicts with adjoining uses and roadways.
- D. Wheel stops may be required and so located as to prevent any vehicle from projecting over the lot or setback lines, or over a sidewalk. Such devices shall be securely anchored into the parking lot to ensure that they remain stationary.
- E. Plans for the layout of off-street parking facilities shall be in accordance with the parking space dimensions of this Ordinance. The minimum parking space



dimensions for a layout not provided for in the regulations shall be ten (10) feet in width, eighteen (18) feet in length.

### **SECTION 11.06 JOINT USE OF FACILITIES**

Provision of common parking facilities for several uses in the same vicinity is encouraged. Where businesses have alternate schedules the Planning Commission may permit reduced total parking provided a deferred parking area is reflected on the approved site plan.

### **SECTION 11.07 DEFERRED PARKING**

If an applicant demonstrates that the required amount of Parking Spaces is excessive, the Planning Commission may defer construction of a portion of the required Parking Spaces for nonresidential uses if the following conditions are met:

- A. Areas shown for deferred parking shall be shown on a site plan and shall be sufficiently large to permit the construction of the total number of Parking Spaces required by this Chapter. Such areas shall not be used for any other purpose required by this Ordinance and shall be kept open.
- B. Alterations to the deferred Parking Area to add Parking Spaces may be initiated by the owner or the Zoning Administrator based on parking needs. Parking Spaces shall be added in accordance with the approved site plan; further approval of the site plan shall not be required.
- C. Deferral of a portion of the otherwise required Parking Area shall not eliminate the need for the owner to comply with all other requirements of this Ordinance.

### **SECTION 11.08 MAXIMUM PARKING LIMITATIONS**

To minimize excessive areas of pavement which detract from the aesthetics of an area and contribute to high rates of storm water runoff, no parking Lot shall have parking spaces totaling more than an amount equal to ten percent (10%) greater than the minimum parking space requirements, except as may be approved by the Planning Commission pursuant to a parking need study submitted by the applicant.

### **SECTION 11.09 PARKING LOT PLANS**

Plans for the development, expansion or reconfiguration of any parking lot shall be submitted and approved, in conformance with the site plan review requirements of Chapter 12.

The construction of any parking lot shall be in accordance with the requirements of the provisions of this Ordinance. Such construction shall be completed and

approved by the Zoning Administrator before actual use of the property as a parking lot, and before a Certificate of Occupancy is issued.

**SECTION 11.10 OFF-STREET LOADING REQUIREMENTS**

- A. On the same premises with every building or structure involving the receipt or distribution of vehicles, materials or merchandise there shall be provided and maintained on the same lot with such building or addition an area or means adequate for maneuvering and ingress and egress for delivery vehicles.

## **CHAPTER 12 SITE PLAN REVIEW**

### **SECTION 12.01 PURPOSE**

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

### **SECTION 12.02 APPLICABILITY**

In accordance with the provisions of this Chapter, the Planning Commission shall approve a site plan for the proposed development prior to the issuance of any permits for the creation of a use or the erection of a building in the districts and conditions cited below. The site plan packet shall include any associated documentation and narrative required to assist the reviewers with their task.

- A. All Permitted Uses within any of the following districts:
  - 1. MHC - Manufactured Housing Community
  - 2. C - Commercial
- B. All Special Land Uses in any district.
- C. Any residential development other than that exempted below.
- D. Site condominiums and subdivisions in any district.
- E. Planned unit developments in any district.
- F. Private Streets
- G. Essential Services

The following shall be exempt from Planning Commission site plan review; instead, the Zoning Administrator shall review a plot plan for the following to ensure compliance with this Ordinance.

- A. Single-family detached dwellings when permitted by right on a lot on which there exists no other building or use.
- B. Farms.

- C. State licensed residential family care facilities and family day care homes.
- D. Home occupations.
- E. Accessory buildings.

**SECTION 12.03 SITE PLAN SUBMITTAL**

- A. Optional Preliminary Site Plan Review:
  - 1. Seven (7) copies of a preliminary site plan may be submitted at least twenty one (21) days prior to the next regularly scheduled Planning Commission meeting by the applicant. The purpose of this optional procedure is to allow discussion between the applicant and the Planning Commissioners, to better inform the applicant of the acceptability of the proposed plans prior to incurring extensive engineering and other costs which might be necessary for final site plan approval.
  - 2. Additional Information. The Planning Commission, prior to granting final approval of a site plan, may request from the applicant any additional graphics or written materials, prepared by a qualified person or person(s) to assist in determining the appropriateness of the site plan. This material may include, but need not be limited to, aerial photography, photographs, impacts on significant natural features and drainage, traffic study, soil tests and other pertinent information.
  - 3. Preliminary site plan submittal shall include the information listed below, unless deemed unnecessary by the Zoning Administrator. The Zoning Administrator shall review the site plan packet for completeness. Incomplete site plan packets will not be accepted by the Zoning Administrator or placed on the Planning Commission's agenda. Preliminary site plans shall be at a scale not to exceed 1 inch equals 100 feet (1" = 100').
  - 4. Applicants have the option to submit a final site plan review packet without an optional preliminary review.

**Site Plan Submission Requirements**

**For both Preliminary & Final Site Plan Review**

1.	A general location sketch showing at a minimum, properties, streets and use of land within 1/2 mile of the area.											
2.	Legal description of the subject property.											
3.	North arrow and plan scale.											
4.	Name and address of the property owner or petitioner and ownership interest.											
5.	Name and address of the person and/or firm who drafted the plan and the date on which the plan was prepared.											
6.	Existing zoning and use of all properties abutting the subject property.											
7.	All buildings, parking and driveways within 100 feet of all property lines.											
8.	Existing and proposed uses, buildings and structures.											
9.	Property lines and dimensions.											
10.	Existing adjacent streets and proposed streets.											
11.	Parking lots and access points.											
12.	General location of utilities, storm water management features, septic systems and wells											
13.	Location of proposed buffer strips or screening.											
14.	General topographical features at contour intervals no greater than 5 feet.											
15.	Significant natural features; and other natural characteristics, including but not limited to open space, wetlands, stands of trees, landmark trees, brooks, ponds, floodplains, hills, slopes of over 15%, and similar natural assets or hazards.											
16.	Seal, of the professional individual responsible for the preparation of the site plan.											
17.	<table border="1"> <tr> <td rowspan="5"> <b>Narrative:</b> Provide written text describing in general terms:                 </td> <td>a.</td> <td>The overall objectives of the proposed development.</td> </tr> <tr> <td>b.</td> <td>Size (in acres) of the subject property and approximate number of acres allocated to each proposed use and gross area in building, structures, parking, streets and drives, and open space.</td> </tr> <tr> <td>c.</td> <td>Dwelling unit densities by type, if applicable.</td> </tr> <tr> <td>d.</td> <td>Proposed method of providing sewer and water service, as well as other public and private utilities.</td> </tr> <tr> <td>e.</td> <td>Anticipated grading and filling and proposed method of storm water management.</td> </tr> </table>	<b>Narrative:</b> Provide written text describing in general terms:	a.	The overall objectives of the proposed development.	b.	Size (in acres) of the subject property and approximate number of acres allocated to each proposed use and gross area in building, structures, parking, streets and drives, and open space.	c.	Dwelling unit densities by type, if applicable.	d.	Proposed method of providing sewer and water service, as well as other public and private utilities.	e.	Anticipated grading and filling and proposed method of storm water management.
<b>Narrative:</b> Provide written text describing in general terms:	a.		The overall objectives of the proposed development.									
	b.		Size (in acres) of the subject property and approximate number of acres allocated to each proposed use and gross area in building, structures, parking, streets and drives, and open space.									
	c.		Dwelling unit densities by type, if applicable.									
	d.		Proposed method of providing sewer and water service, as well as other public and private utilities.									
	e.	Anticipated grading and filling and proposed method of storm water management.										

<b>Site Plan Submission Requirements</b>	
<b>Additional Information for <i>Final</i> Site Plan Review</b>	
18.	Property lines for each site condo unit or lot shown and dimensioned.
19.	Buildable area for proposed structures (i.e., setbacks shown) on the subject property for each lot or site condominium unit.
20.	Specifications for and location of existing and proposed utilities.
21.	All existing and proposed drives (including dimensions and radii), acceleration/deceleration lanes serving the site and cross-sections of internal roads serving the development.
22.	Location and specifications for curbing, parking areas (including the dimensions of a typical parking space and the total number of parking spaces to be provided), fire lanes, and unloading areas.
23.	Location and size of all surface water drainage facilities including storm event data.
24.	All existing vegetation noted to be protected and a detailed landscaping plan including data on species, number and size of plant materials to be used.
25.	Location and profiles of all proposed fencing and walls.
26.	Location of all solid waste disposal facilities, including recycling, and screening.
27.	Location and specifications for existing or proposed outside, above or below ground storage facilities for hazardous materials.
28.	Dedicated open space, marked, described and a recordable form to protect such lands in perpetuity.
29.	Exterior lighting showing area of illumination (via a photometric chart) and indicating the type and height of fixture to be used.
30.	Any signs not attached to the building(s).
31.	Elevation drawings of proposed buildings.
32.	Location and specifications for trails and sidewalks.
33.	Development agreement (as appropriate).
34.	Easement descriptions and dedications.
35.	Approved road names (as appropriate).
36.	Detailed landscape plan, including method of protecting existing vegetation , species listing and sizes for new landscaping materials, profile of proposed buffer strips, screening, fence design, and timing of landscaping improvements.

The Planning Commission shall review the preliminary site plan and make any recommendations to the applicant that will cause the plan to be in conformance with the review standards required by this Chapter. The Planning Commission shall

advise the applicant as to the general acceptability of the proposed plan, but shall not be bound by any statements or indications of acceptance of the plan.

#### **SECTION 12.04 ADMINISTRATIVE FEES**

- A. Any Site Plan application shall be accompanied by a non-refundable fee in accordance with the schedule of fees established by the Township Board. Such fee shall be for the purpose of payment of the administrative costs and services expended by the Township in the implementation of this Chapter and the processing of the application. No part of such fee shall be refundable to the applicant.
- B. An escrow fee may also be collected by the Township pursuant to Section 16.03 of this ordinance. Such fee is intended to reimburse another party retained by the Township to provide expert consultation and advice regarding the application.

#### **SECTION 12.05 CHANGES IN THE APPROVED SITE PLAN**

Changes to the approved site plan shall be permitted only under the following circumstances:

- A. The holder of an approved site plan shall notify the Zoning Administrator of any proposed change in writing to an approved site plan.
- B. Minor changes may be approved by the Zoning Administrator upon determining that the proposed revision(s) will not alter the basic design or any specified conditions imposed as part of the original approval. Minor changes shall include only the following:
  - 1. Change in any building size, up to five percent (5%) in gross floor area.
  - 2. Movement of buildings or other structure by no more than ten (10) feet.
  - 3. Replacement of plant material specified in the landscape plan with comparable materials of an equal or greater size.
  - 4. Changes in building materials to a comparable or higher quality.
  - 5. Changes in floor plans which do not alter the character of the use.
  - 6. Changes required or requested by the Township, the County Street Commission, or other County, State, or Federal regulatory agency in order to conform to other laws or regulations.

- C. A proposed change not determined by the Zoning Administrator to be minor shall be submitted to the Planning Commission as a site plan amendment, and shall be reviewed in the same manner as the original application, including payment of an application fee. The previously approved site plan shall be provided to the Planning Commission for comparative purposes. Proposed changes shall be noted on the site plan and included in narrative form.

### **SECTION 12.06 REVIEW STANDARDS**

The following standards shall be utilized by the Planning Commission in reviewing all site plans. These standards are intended to provide a frame of reference for the applicant in the preparation of site plans as well as for the reviewing authority in making judgment concerning them.

- A. The uses proposed will not adversely affect the public health, safety, or general welfare.
- B. The site plan shall provide reasonable visual and sound privacy for all dwelling units located within and adjacent to a development. Fences, walls, barriers, and landscaping shall be used, as appropriate, to accomplish these purposes.
- C. Removal or alteration of significant natural features shall be restricted to those areas which are reasonably necessary to develop the site:
  - 1. Landmark trees and significant vegetation slated for protection shall be marked on site to prevent their damage during construction.
  - 2. A plan for natural feature protection during construction shall be provided.
  - 3. Utilities may be required to be placed underground.
  - 4. Provisions shall be made to accommodate storm water on-site wherever practical.
  - 5. Areas of natural drainage such as swales, wetlands, ponds, or swamps shall be protected and preserved insofar as practical in their natural state to provide areas for natural habitat, preserve drainage patterns and maintain the natural characteristics of the land.
  - 6. Direct discharge of storm water into surface waters is prohibited.
  - 7. Infiltration devices such as rain gardens and French drains are preferred over large retention basins.



- D. Safe, convenient, uncongested, and well-defined vehicular and pedestrian circulation shall be provided within the site.
- E. The minimum number of driveway points shall be provided at appropriate locations to maximize convenience and safety.
- F. Paths, drives and streets shall be designed to promote safe and efficient traffic operations within and between developments.
- G. The site shall be developed to create a pleasant, pedestrian paced atmosphere which de-emphasizes the automobile and considers rural character.
- H. The Planning Commission may require traffic calming measures, paved road shoulders, and deceleration or turn lanes when necessary.
- I. The Planning Commission may require shared driveways, cross access easements and pathway cross-connections between developments.
- J. Site amenities like street trees, bike racks, benches and outdoor tables may be required by the Planning Commission.
- K. All buildings and groups of buildings shall be arranged so as to permit necessary emergency vehicle access as requested by the Fire Department.
- L. Exterior lighting shall be arranged so that it is deflected away from adjacent properties and so that it does not interfere with the vision of motorists along adjacent streets. Lighting of buildings or structures shall be minimized to reduce light pollution. The site shall comply with the requirements of Section 12.04.
- M. All loading and unloading areas and outside storage areas, including areas for the storage of trash, shall be provided in accordance with Section 12.04.
- N. The general purposes and spirit of this Ordinance and the Master Plan of the Township shall be maintained.

#### **SECTION 12.07 CONDITIONS OF APPROVAL**

- A. As part of an approval to any site plan, the Planning Commission may impose any additional conditions or limitations as in their judgment may be necessary for protection of the public interest.
- B. Such conditions shall be related to and ensure that the review standards of this Chapter are met and shall meet the requirements of the Zoning Act.

- C. Approval of a site plan, including conditions made as part of the approval, shall apply to the property described as part of the application and to all subsequent owners.
- D. A record of conditions shall be maintained. The conditions shall remain unchanged unless an amendment to the site plan is approved in accordance with this Ordinance.
- E. A record of the decision of the Planning Commission, the reason for the decision reached, and any conditions attached to such decision shall be kept and made a part of the minutes of the Planning Commission.
- F. The Zoning Administrator may make periodic inspections of developments for which site plans have been approved. Non-compliance with the requirements and conditions of the approved site plan shall be considered violations of this Ordinance.

#### **SECTION 12.08 PERFORMANCE GUARANTEE**

The Planning Commission may require a performance guarantee in accordance with Section 16.04 to insure compliance with any conditions associated with the granting of a site plan approval.

## **CHAPTER 13 SPECIAL LAND USES**

### **SECTION 13.01 SCOPE**

This Chapter provides a set of procedures and standards for special uses of land or structures, which because of their unique characteristics require special consideration in relation to the welfare of adjacent properties and the community as a whole. The regulations and standards, herein, are designed to allow, on one hand, practical latitude for the applicant, but at the same time maintain adequate provision for the protection of the health, safety, convenience, and general welfare of Denver Township. For purposes of this Ordinance, all Special Land Uses within the various districts are subject to the conditions and standards of this Chapter. In addition, Special Land Uses shall conform to the specific standards cited in Section 13.05, as applicable.

### **SECTION 13.02 APPLICATION AND REVIEW PROCEDURES**

- A. An application shall be submitted through the Zoning Administrator, accompanied by:
  - 1. The payment of an application fee and any required escrow fee. Any additional costs will be the responsibility of the applicant.
  - 2. A completed application form, as provided by the Township.
  - 3. Complete site plans as specified in Chapter 12.
  - 4. A narrative describing the proposed use(s).
- B. Applications for a Special Land Use shall be submitted at least thirty (30) days prior to the next Planning Commission meeting.
- C. The application, along with the required site plan, shall be forwarded to the Planning Commission at its next scheduled meeting.
- D. The Planning Commission shall hold a public hearing on the application, noticed in accordance with Section 16.05(4). The Planning Commission shall then review the application and other information available to it through the public hearing or from any other sources, including recommendations or reports from the Township's planner, engineer, or other party, and shall approve, approve with conditions, or deny the request, and incorporate the basis for the decision and any conditions which should be imposed on an approval.
- E. No petition for Special Land Use approval, which has been disapproved, shall be resubmitted for a period of one (1) year from the date of disapproval, except as may be permitted by the Zoning Administrator after learning of

new and significant facts or conditions which might result in favorable action upon re-submittal.

- F. A Special Land Use approved pursuant to this Chapter shall be valid for one (1) year from the date of approval. Each development shall be under construction within one (1) year after the date of approval of the Special Land Use, except as noted below.
  - 1. The Planning Commission may grant one (1) six (6) month extension of the approval, provided the applicant requests the extension prior to the date of the expiration of the Special Land Use approval.
  - 2. The extension shall be approved if the applicant presents reasonable evidence to the effect that the development has encountered unforeseen difficulties beyond the control of the applicant, and the project will proceed within the extension period.
  - 3. If neither of the above provisions are fulfilled or the six (6) month extension has expired prior to construction, the Special Land Use approval shall be null and void.
- G. The Planning Commission shall have the authority to revoke any Special Land Use approval after it has been shown that the holder of the approval has failed to comply with any of the applicable requirements of this Chapter, other applicable sections of this Ordinance, or conditions of the Special Land Use approval. Prior to revocation, the Planning Commission shall conduct a public hearing following the notification procedures for the original approval.

### **SECTION 13.03 EXISTING SPECIAL LAND USES**

Uses of land and/or development projects granted Special Land Use status by the Township prior to the adoption of this Zoning Ordinance may continue this status provided the rules, regulations, requirements, and conditions under which the Special Land Use was approved are met.

### **SECTION 13.04 GENERAL STANDARDS**

- A. In addition to the standards established for specific uses herein, an application for a Special Land Use shall be reviewed for compliance with the review standards for approval of site plans in Section 12.07. Conditions, as authorized in Section 13.04, C, may be placed upon a Special Land Use.
- B. Each application shall be reviewed for the purpose of determining that the proposed Special Land Use will:
  - 1. Be designed, constructed, operated and maintained so as to be harmonious and appropriate in appearance, with the existing or

intended character of the general vicinity and that the use will not change the essential character of the area in which it is proposed.

2. Be served adequately by essential public facilities and services such as highways, streets, police, and fire protection, drainage structures, and refuse disposal, water and sewage facilities.
  3. Not create excessive additional requirements at public cost for public facilities and services.
  4. Not involve uses, activities, processes, materials, and equipment or conditions of operation that will be detrimental to any persons, property, or the general welfare by reason of excessive production or effects of traffic, noise, smoke, fumes, glare, or odors.
- C. The Planning Commission may stipulate any additional conditions and safeguards deemed necessary to accomplish the following purposes. Failure to comply with the conditions may result in the revocation of the Special Land Use approval, pursuant to Section 13.02-G. Conditions imposed shall be those necessary to ensure that the proposed Special Land Use will:
1. Meet the intent and purpose of the Zoning Ordinance.
  2. Relate to the standards established in the Ordinance for the land use or activity under consideration.
  3. Ensure compliance with those standards.
  4. Protect the general welfare.
  5. Protect individual property rights.
  6. Ensure that the intent and objectives of this Ordinance will be observed.

### **SECTION 13.05 PERFORMANCE GUARANTEE**

The Planning Commission may require a performance guarantee in accordance with Section 16.04 to insure compliance with any conditions associated with the granting of a site plan approval.

### **SECTION 13.06 SPECIAL LAND USE SPECIFIC REQUIREMENTS**

The general standards and requirements of Section 13.04, B, are basic to all Special Land Uses. The specific and detailed requirements set forth in Section 13.06 relate to particular uses and are requirements which shall be met by those uses in addition to the foregoing general standards and requirements. Any use listed in the

ordinance not addressed following shall be reviewed under the standards of Section 13.04.

**SECTION 13.07 SPECIFIC STANDARDS**

- A. Adult foster care, small and large group home
- B. Agri-tourism
- C. Banquet hall or conference center
- D. Bed and breakfast establishment
- E. Commercial "mini" storage warehouse
- A. Commercial Processing of topsoil, stone, rock, sand gravel, lime or other soil or mineral resources (not including oil or gas)
- F. Convenience Stores with Gasoline
- G. Cottage Industry
- H. Day care center (commercial)
- I. Drive-through facilities (banks, credit unions, pharmacies, etc.)
- J. Drive-through restaurant
- K. Farm Labor Housing
- L. Farm Market
- M. Fraternal or social club or lodge
- N. Funeral home and mortuary
- O. Game or Hunting Preserve
- P. Home Based Business
- Q. Hotel/Motel
- R. Intensive Livestock Operations
- S. Junk or Salvage Yard
- T. Kennel (commercial)

- U. Open air business
- V. Riding Stable
- W. Recreation facility (outdoor)
- X. Recreation facility (indoor)
- Y. Religious Institution
- Z. Restaurant with Drive Through Facility
- AA. Sawmill
- BB. Shooting or Rifle Range
- CC. Vehicle Repair Facility
- DD. Vehicle Sales
- EE. Vehicle Service Station
- FF. Veterinary Clinics
- GG. Wind Energy Conversion Systems
- HH. Wireless communication tower

### **Specific Requirements by Use**

- A. Adult Foster Care, Small and Large Group Home.
  - 1. Non-residential parking setback and screening provisions shall apply.
  - 2. The facility shall be at least one thousand five hundred (1,500) feet from any other similar facility.
- B. Agri-tourism
  - 1. Minimum lot size shall be 5 acres.
  - 2. Activities may include entertainment functions associated with the farm including, but not necessarily limited to, u-pick, corn mazes and petting zoos.
  - 3. No activity or structure shall be located within fifty (50) feet of the public road right-of-way.

4. All parking shall be out of the public right of way. A minimum of ten (10) parking spaces shall be provided for the market. Facilities providing entertainment functions shall provide a minimum (100) spaces for off-street parking.
5. The access drive which shall be wide enough to accommodate two vehicles side-by-side. Two access drives may be required by the County Road Commission where a facility is large enough to need additional access points.
6. Access to the site shall be located at least one hundred (100) feet from any intersection as measured from the nearest right-of-way line to the nearest edge of the intersection.
7. Suitable containers for rubbish shall be placed on the premises for public use.
8. Storage structures shall be permitted.
9. Hours of operation shall be limited between the hours of 7:00 a.m. and 10:00 p.m.

C. Banquet Hall or Conference Center.

1. The facility shall be located with direct access to a paved street.
2. Minimum lot size shall be two (2) acres with a minimum of two hundred (200) feet of frontage.
3. Access to the site shall be located at least one hundred (100) feet from any intersection as measured from the nearest right-of-way line to the nearest edge of the intersection.
4. Where the site abuts a Residential District, screening shall be provided along that property line. Grass, plant materials, and sight-obscuring fences or walls, of a type approved by the Planning Commission, shall be placed within the buffer strip. The Planning Commission shall use Section 12.04 when determining screening needs.

D. Bed and Breakfast Establishment.

1. The rooms utilized shall be part of a residential dwelling structure and do not involve alteration or construction not customarily found in dwellings.
2. A scaled floor plan of the premise shall be submitted as part of the application.



3. The bed and breakfast operation shall be the principal residence of the operator and the operator shall reside on the premises.
4. The bed and breakfast shall have eight (8) or fewer sleeping rooms, including sleeping rooms occupied by the operator.
5. Sufficient off-street parking shall be provided for residential purposes, at the rate of one (1) parking space per guest sleeping room and two (2) spaces for the resident owner.
6. One (1) non-illuminated sign, not exceeding sixteen (16) square feet in area, is permitted. The placement and design of signs shall not detract from the scenic environment or contribute to general traffic hazards.
7. All refuse and/or trash containers shall be enclosed within a privacy fence or other suitable enclosure and shall not be located in the front yard.
8. The conduct of all aspects of activities related to the use shall take place only within the main building.
9. Lavatories and bathing facilities shall be available to all persons using any bed and breakfast operation.
10. No premises shall be utilized for a bed and breakfast operation unless there are at least two (2) exits to the outdoors from the premises. Rooms utilized for sleeping shall have a minimum size of one hundred (100) square feet.
11. The structure shall remain a residential structure and the kitchen shall not be remodeled into a commercial kitchen.
12. Meals shall be served only to residents and overnight guests.
13. No receptions, private parties or activities for which a fee is paid shall be permitted except for those that involve registered guests.
14. The maximum stay for any occupant of bed and breakfast operations shall be fourteen (14) consecutive days.
15. No guest room shall be located in a basement or cellar.

E. Commercial "Mini" Storage Warehouse.

1. The use shall be developed on lots of at least two (2) acres, but not more than five (5) acres in size. No more than sixty percent (60%) of the lot may be used for buildings, parking lots and access.

2. The lot shall abut and gain access from a paved street.
3. A six (6) foot, solid fence of a material acceptable to the Planning Commission, shall enclose the area occupied by the use. The fence shall be set back at least thirty (30) feet from the front property line.
4. The front yard, up to the fence shall be landscaped in accordance with Section 12.04.
5. There shall be a minimum of thirty-five (35) feet between storage facilities for driveway, parking, and fire lane purposes. Where no parking is provided within the building separation areas, the building separation need only be twenty-five (25) feet.
6. Traffic direction and parking shall be designated by signs or painting.
7. The lot area used for parking and access shall be provided with a dustless surface and shall be drained so as to dispose of all surface water.
8. Where the site abuts a Residential District, screening shall be provided along that property line. Grass, plant materials, and sight-obscuring fences or walls, of a type approved by the Planning Commission, shall be placed within the buffer strip. The Planning Commission shall use Section 12.04 when determining screening needs.
9. The Planning Commission may require architectural features on the façade of any structure that is visible from a public street to ensure visual compatibility with surrounding uses.

F. Commercial Extraction and Processing of Topsoil, stone, rock, sand gravel, lime or other soil or mineral resources (not including oil or gas)

1. No soil, sand, gravel, or other earth material shall be removed from any land within the County without Special Land Use approval, with the following exceptions:
  - a. When the earth removal is incidental to an operation for which a building permit has been issued by the County;
  - b. When the earth removal involves any normal landscaping, driveway installation and repairs, or other minor projects;
  - c. When the earth removal involves less than one thousand (1,000) cubic yards;
  - d. When the earth removal is for construction of a swimming pool.

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

- 12) Proposed method of managing overburden (e.g., seeding, grading, erosion and sedimentation control, etc.
- c. A narrative description and explanation of the proposed extraction operations and activities, including:
- 1) The date of commencement.
  - 2) Proposed hours and days of operation.
  - 3) Estimate of type and quantity of mineral materials to be removed.
  - 4) Description of extraction and processing methods, including proposed equipment and the noise rating of each type thereof.
  - 5) A summary of the procedures and practices that will be used to ensure compliance with the conditions of this subsection.
  - 6) Description of size of trucks and daily volume of traffic entering and leaving the site.
- d. A site rehabilitation plan including the following:
- 1) A written description of planned site rehabilitation and end-use(s), including potential methods of accomplishment and phasing.
  - 2) A plan showing:
    - i. Final grades of the lands as rehabilitated, at contour intervals not exceeding five (5) feet;
    - ii. Water courses, ponds, or lakes, if any;
    - iii. Landscaping and plantings;
    - iv. Areas of cut and fill; and
    - v. All of the components of the proposed end-use(s);
  - 3) A description of the proposed methods or features that will ensure that the end-use is feasible, and can comply with all applicable requirements of this Ordinance.
- e. The Planning Commission may require an environmental impact

statement, engineering data, or other additional information concerning the need for, and consequences of, such extraction if it is believed the extraction may have very serious consequences on, groundwater, drainage, water bodies, flood plains, or other natural features.

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

within the area of operation shall be provided with a dustless surface and the entry road shall be hard surfaced for a distance established by the Planning Commission to minimize dust, mud, and debris being carried onto the public road.

7. Proper measures shall be taken to minimize the nuisance of noise and flying dust or rock. Such measures may include, when considered necessary, limitations upon the practice of stockpiling excavated material upon the site.
8. The operation shall be restricted to the hours of 6 a.m. until 9 p.m.
9. Access to the site shall be located at least one hundred (100) feet from any intersection as measured from the nearest right-of-way line to the nearest edge of the intersection.
10. During activities and operations for the removal of mineral material, no mineral material or other excavated materials shall be left during weekends or overnight in such condition or manner as to constitute a danger to children or others who may enter the removal areas. All banks of excavated material shall be graded to slopes having a vertical to horizontal ratio of not greater than one (1) foot of elevation for each two (2) feet of horizontal distance, after the cessation of daily operations. However, the Planning Commission may permit some lesser daily grading requirement if the applicant provides a substantially constructed and maintained welded wire fence, or fence of equally substantial material. Such fence shall be at least four (4) feet in height, so located that any slopes steeper than one (1) foot of elevation for each two (2) feet of horizontal distance cannot inadvertently be approached by any persons who may enter the removal area.
11. The Planning Commission may require compliance with such other conditions as may be necessary to ensure compliance with the terms of this subsection. Such conditions may include, though need not be limited to, weed controls, erosion and sedimentation controls, fencing and visual screening including berms, requirements for groundwater monitoring wells, preservation of trees and other vegetation, and fuel loading and storage requirements.
12. An applicant for a permit shall submit a performance bond in accordance with the requirements of this Ordinance, naming Newaygo County as the insured party, and conditioned upon the timely and faithful performance by the applicant of all of the terms and conditions of the permit. The bond shall have such other terms and shall be in such amount as is recommended by the Zoning Administrator as reasonably necessary to ensure compliance with all of the terms and conditions of this subsection and the permit.

- a. The performance bond shall not be refunded, reduced, or transferred until the mineral removal operations and activities, land reclamation or restoration, and all other required activities have received final inspection by the Zoning Administrator.
- b. The timely and faithful compliance with all of the provisions of the performance bond shall be a condition of any mineral removal operations. In the absence of any such compliance with the terms of the performance bond, or if the special use is revoked, expires, or is not renewed, the Planning Commission need not approve the renewal of any permit, even if the applicant has otherwise complied with all other terms and provisions of the current permit.

G. Convenience Stores with Gasoline

1. Sufficient stacking capacity shall be provided for vehicles awaiting fueling. Stacking spaces shall be located so as not to interfere with vehicular circulation and egress from the site.
2. Access driveways shall be located no less than one hundred fifty (150) feet from the right-of-way line of any street or seventy-five (75) feet from the nearest edge of any other driveway.
3. Outdoor speakers piping music or other continual sounds are prohibited.
4. Pedestrian elements shall be incorporated into the site plan including such features as outdoor seating areas, safe walkways to the facility, including measures to separate pedestrian and vehicular traffic.
5. Where the site abuts a Residential District, screening shall be provided along that property line. Grass, plant materials, and sight-obscuring fences or walls, of a type approved by the Planning Commission, shall be placed within the buffer strip. The Planning Commission shall use Section 12.04 when determining screening needs.

H. Cottage Industry

1. The types of cottage industries that can be taken up shall include, but not be limited to, those listed below and those the Planning Commission determine to be substantially similar:
  - a. Tearooms, such as those that serve cream tea, often served from a china set, and a scone with jam and clotted cream.
  - b. Specialty food and beverage preparation (e.g., cheeses, breads) – without consumption;

- c. Artisans and craftsmen producing unique and distinctive items for sale on the premises;
  - d. Custom manufacturing – art framing, etc.;
  - e. Packing and Processing: Winery;
  - f. Handloom weaving, handicrafts, bee-keeping, etc.
2. Not more than two (2) employees shall be working on the premises in addition to the members of the family residing on the premises.
  3. The cottage industry shall be clearly incidental and subordinate to the use of a parcel containing a dwelling occupied as a principal residence of the owner or operator of the cottage industry.
  4. Multiple uses may be permitted within a cottage industry. The area occupied by all uses within the cottage industry, including storage, shall not exceed one thousand (1,000) square feet.
  5. Minimum parcel size shall not be less than two (2) acres; provided that a smaller parcel may be approved by the Planning Commission upon finding that the intent and other requirements of this Section can still be met.
  6. All aspects of the cottage industry shall be located and conducted within a dwelling unit or enclosed accessory building(s);
  7. There shall be no change in the outside appearance of the building or premises, except one (1) non-illuminated sign not exceeding six (6) square feet in area and four (4) feet in height;
  8. In the event a new building is constructed to accommodate the cottage industry, it shall maintain a vernacular similar to that of existing buildings within the vicinity. The buildings shall have a traditional rural residential, farmstead or lakeside cottage character.
  9. The sale of merchandise not produced on the premises shall be incidental and accessory to the merchandise or service produced by the cottage industry and shall not be advertised in any manner;
  10. Not more than ten (10) customers or clients shall come to premises during any one (1) day, restricted to the hours 7:00 a.m. to 7:00 p.m.;
  11. Not more than two (2) delivery vehicles shall access the premises each week;
  12. Large vehicles or construction equipment (such as trucks of over one (1) ton rating) is not permitted as part of a cottage industry;



13. No equipment or process used in the cottage industry shall create noise, vibration, glare, fumes, dust, odors, smoke, electrical interference or other impacts in excess of those customarily generated by single-family residential uses in the neighborhood.

I. Day Care Center (Commercial).

1. A facility shall not operate between the hours of 10:00 p.m. and 6:00 a.m. unless the main building and any play area are separated from any residence by more than two hundred (200) feet.
2. Playground equipment shall not be located in a required side yard.
3. All outdoor play areas shall be a minimum of fifty (50) feet from a residential district and enclosed with fencing, a minimum of four (4) feet high which cannot be climbed.
4. An off-street drop-off area is to be provided with the capability to accommodate at least two (2) vehicles in addition to the parking normally required for employees.
5. Activities associated with child care shall not be permitted in any accessory building, structure, or attached or detached garage other than the main building.
6. There shall be provided on the site a useable outdoor area at the rate of at least sixty-six (66) square feet for each child, or as required by the State of Michigan.

J. Drive-through Facilities (as part of another business), such as Banks, Credit Unions, Pharmacies, etc.

1. The accessory buildings shall be set back a minimum of sixty (60) feet from any adjacent right-of-way line.
2. Public access to the site shall be located at least one hundred (100) feet from any intersection as measured from the nearest right-of-way line to the nearest edge of the intersection.
3. Where the site abuts a Residential District, screening shall be provided along that property line.
4. The site shall be designed to provide adequate stacking space.
5. Outdoor speakers for the drive-through facility shall be located in a way that minimizes sound transmission toward neighboring property and uses.

6. Where the site abuts a Residential District screening shall be provided along that property line. Grass, plant materials, and sight-obscuring fences or walls, of a type approved by the Planning Commission, shall be placed within the buffer strip. The Planning Commission shall use Section 12.04 when determining screening needs.

K. Drive-through Restaurant.

1. Sufficient stacking capacity shall be provided for the drive-through portion of the operation to ensure that traffic does not extend into the public right-of-way. Stacking spaces shall be located so as not to interfere with vehicular circulation and egress from the property or parking spaces by vehicles not using the drive-through portion of the facility. The stacking space requirement may be reduced by the Planning Commission based on the nature of the restaurant, provided sufficient reason is provided as to the reduction, but in no case shall fewer than six (6) spaces be provided.
2. In addition to parking and stacking space requirements, at least two (2) standing or parking spaces shall be provided in close proximity to the exit of the drive-through portion of the operation to allow for customers waiting for delivery of orders.
3. Setback areas shall be landscaped in accordance with Section 12.04.
4. Access driveways shall be located no less than one hundred fifty (150) feet from the right-of-way line of any street or seventy-five (75) feet from the nearest edge of any other driveway.
5. Menu/speaker boards shall be provided that minimize verbal feedback. Speakers shall be located, positioned and controlled to minimize noise impacts.
6. Pedestrian elements shall be incorporated into the site plan including such features as outdoor seating areas, safe walkways to the restaurant, including measures to separate pedestrian and vehicular traffic in the areas nearest drive through windows.
7. Where the site abuts a Residential District, screening shall be provided along that property line. Grass, plant materials, and sight-obscuring fences or walls, of a type approved by the Planning Commission, shall be placed within the buffer strip. The Planning Commission shall use Section 12.04 when determining screening needs.

L. Farm Labor Housing

1. Farm size shall be a minimum of 20 acres in size
2. Seasonal housing shall only be used for persons and their families directly employed by the owner of the farm dwelling.
3. The rules, regulations, and standards of the State of Michigan governing the licensing and operation of seasonal housing shall apply where any dwelling is used to house one or more seasonal workers.
4. Seasonal housing shall be located at one hundred (100) feet from any public road, at least two hundred (200) feet from any other property line and four hundred (400) feet from any dwelling on adjacent property.
5. No newly constructed seasonal housing unit shall have more than one story nor accommodate more than one family. No migrant housing structure shall be closer than thirty (30) feet to another structure.
6. To ensure adequate access for emergency vehicles and personnel, no seasonal housing unit shall be located closer than thirty (30) feet to a driveway or private road and no closer than ten (10) feet to any other building or structure.
7. All construction shall conform to the building codes adopted by the County and other Ordinances where such regulations impose greater standards than state and federal regulations.
8. Any seasonal housing that is not occupied by seasonal workers during five (5) consecutive seasons shall be removed by the owner within six (6) months.

M. Farm Market

1. Minimum lot size shall be 5 acres.
2. Farm market activities may include entertainment functions associated with the farm including, but not necessarily limited to, cider processing, donut making, pumpkin carving, hayrides, apple dunking, and Christmas tree cutting.
3. No activity or structure shall be located within fifty (50) feet of the public road right-of-way.
4. All parking shall be out of the public right of way. A minimum of ten (10) parking spaces shall be provided for the market. Facilities

providing entertainment functions shall provide a minimum (100) spaces for off-street parking.

5. The access drive which shall be wide enough to accommodate two vehicles side-by-side. Two access drives may be required by the County Road Commission where a facility is large enough to need additional access points.
6. Access to the site shall be located at least one hundred (100) feet from any intersection as measured from the nearest right-of-way line to the nearest edge of the intersection.
7. Suitable containers for rubbish shall be placed on the premises for public use.
8. Storage structures are permitted.
9. Farm markets shall be located no closer than two hundred (200) feet from any lot line which abuts a residential zone or dwelling unit.
10. Hours of operation shall be limited between the hours of 7:00 a.m. and 10:00 p.m.

N. Fraternal or Social Club or Lodge.

1. The site shall have at least one (1) property line abutting a paved street.
2. All vehicular ingress and egress to the site shall be directly from a public thoroughfare, unless otherwise approved by the Planning Commission.
3. Public access to the site shall be located at least one hundred (100) feet from any intersection as measured from the nearest right-of-way line to the nearest edge of the intersection.
4. Where the site abuts a Residential District, screening shall be provided along that property line. Grass, plant materials, and sight-obscuring fences or walls, of a type approved by the Planning Commission, shall be placed within the buffer strip. The Planning Commission shall use Section 12.04 when determining screening needs.

O. Funeral Home and Mortuary.

1. A well-designed and landscaped off-street vehicle assembly area shall be provided to be used in support of funeral procession activity. This area shall not obstruct internal circulation within the required off-street parking area or its related maneuvering space.

2. A caretaker's residence may be provided within the main building.
3. The proposed site shall front upon a paved street. All ingress and egress shall be from that thoroughfare.
4. Public access to the site shall be located at least one hundred (100) feet from any intersection as measured from the nearest right-of-way line to the nearest edge of the intersection.

P. Game or Hunting Preserve

1. Minimum lot size shall be forty (40) acres.
2. Minimum setback of one hundred (100) feet from any property line is required for the area used for breeding, rearing, selling, and housing the animals or birds.
3. Fencing will be required commensurate with that required to obtain a "Permit to Hold Wildlife in Captivity" permit from the Michigan Department of Natural Resources.
4. Hunting of animals or birds for sport or profit may be permitted in designated areas subject to State laws pertaining to separation distances required between hunting areas and residential structures.
5. Animal waste shall be disposed of in safe manner, as recommended by the Public Health Department. Such disposal shall not constitute a hazard to adjacent property owners.

Q. Home Based Business

1. Examples of home-based businesses include: construction contractors, well drilling, independent trucking, small-scale heavy equipment operator, landscaping services, portable sawmill, firewood sales, cabinet makers and farm implement repair.
2. With the Special Land Use application and associated site plan, the following information shall be included:
  - a. Type of business.
  - b. Hours of operation.
  - c. Number of employees.
  - d. Amount and type of waste (material and effluent) to be generated and the method of handling and disposing of all wastes.
  - e. Anticipated levels of noise, odor, glare, dust, fumes, and related impacts.

- f. Anticipated traffic levels (customer, delivery vehicles, etc.).
3. The parcel shall contain a single family dwelling.
4. No more than three (3) persons who are not residents of the dwelling shall be employed on the premises at which the home business is conducted.
5. Any need for parking generated by the conduct of such home business shall be provided off the road.
6. The home-based business may be conducted within an accessory building. All activities shall be conducted within such buildings and no outdoor storage of materials shall be permitted.
7. Parking of commercial grade vehicles shall be a screened from public view and neighboring properties. The number of commercial grade vehicles shall be limited to two (2) vehicles.
8. The accessory building in which the home-based business is conducted shall be setback at least 100 feet from all property lines and 250 feet from the property line of a residential use.
9. The home based business shall not result in the alteration of the dwelling, nor the construction of an accessory building, which is not customary to dwellings and residential accessory buildings.
10. Only those goods or products which are clearly primary to the home based business shall be sold on the premises. No merchandise, equipment, or articles for sale shall be displayed for advertising purposes so as to be viewable from outside the main building.
11. The hours of operation shall be limited to 6:00 a.m. to 9:00 p.m.

R. Hotel/Motel

1. Minimum lot area shall be one (1) acre and minimum lot width shall be one hundred and fifty (150) feet.
2. Parking areas shall have a minimum front yard setback of twenty (20) feet and side and rear yard setbacks of ten (10) feet.
3. Ingress and egress shall be from a paved major street.
4. Minimum floor area of each guest unit shall be two hundred and fifty (250) square feet.

5. Maximum building height shall not exceed the height limits of the district.

S. Intensive Livestock Operations

1. Minimum lot size shall be ten (10) acres.
2. Confined feedlots shall adhere to the generally accepted agricultural management practices (GAAMPS) promulgated by the State Department of Agriculture with respect to buffer areas, manure management, odor management, etc.

T. Junk or Salvage Yard

1. The property shall be a minimum of five (5) acres.
2. Requests for a special land use approval for establishment of a salvage or junk yard shall also require submission of a detailed proposal identifying the predominant type of salvage or junk to be received, the methods of separation and/or recycling, and ultimate destination of waste materials.
3. The site shall be provided with direct access to a Class "A" road.
4. No portion of the storage area shall be located within one thousand (1,000) feet of any Residential District, one hundred (100) feet of any other property line, or within one hundred feet of any public road right-of-way line, nor shall it be located within one thousand (1000) feet of any body of water.
5. Any outdoor storage area shall be completely enclosed by a fence, wall, or dense evergreen planting strip at least six (6) feet, but no more than eight (8) feet, in height constructed of a sturdy, durable material and sufficiently opaque to ensure that salvage is not visible from outside the storage area. The screen enclosure shall have a minimum of two (2) non-transparent gates not exceeding forty-eight (48) feet in width providing access to the storage area for vehicles but shall not allow direct view of the storage area from adjacent properties or roads. Said fence or wall shall be continuously maintained in good condition.
6. Stored materials shall not be placed outside the required fenced or screened area and shall be stored in a manner so as not to be visible from adjoining properties or rights-of-way. Materials stacked higher than eight (8) feet shall be set back a minimum of fifty (50) feet from the perimeter fence; unless otherwise specifically permitted by the Planning Commission.

7. The fence or wall enclosing the storage area shall meet the applicable building setback requirements in the front yard.
8. A management office shall be provided on site. A residence may be permitted for security personnel or on-site operator.
9. Conditions within the storage area shall minimize the hazards of fire, environmental contamination and other threats to health and safety.
10. All portions of the storage area shall be accessible to emergency vehicles.
11. Vehicles or vehicle bodies shall be stored in rows with a minimum of twenty (20) foot continuous loop drives separating each row of vehicles.
12. All batteries shall be removed from any vehicle, and all radiators, oil sumps, and fuel tanks shall be drained prior to the vehicle being placed in the storage yard. Salvaged batteries, oil and other such substances shall be removed by a licensed disposal company or be stored in a manner which prevents leakage. No fluids removed from vehicles shall be applied as a dust control method.
13. Vehicle parts shall not be stored, loaded, unloaded, or dismantled outside the fence enclosing the salvage yard. The area used for any dismantling or any other activity associated with removing body parts or components shall be paved with an asphalt or Portland cement binder and equipped with a drainage system that will allow the capture of any fluids or other materials. Any captured fluids shall be disposed of in a safe and sanitary manner.

U. Kennel (commercial)

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



V. Open Air Business.

1. Minimum lot area shall be five (5) acres.
2. The Planning Commission may require a six (6) foot fence or wall to be constructed along the rear and /or sides of the lot to keep trash, paper, and other debris from blowing off the premises.
3. The Planning Commission may, to ensure strict compliance with any regulation contained herein and required as a condition of special land use approval, require the permittee to furnish a performance bond in accordance with Section 16.04.
4. Display parking or storage areas shall be provided with a permanent, durable, and dustless surface, and shall be graded so as to properly dispose of all surface water.
5. Ingress and egress shall be provided from a paved street and shall be at least one hundred (100) feet from an intersection.
6. All loading activities and parking areas shall be provided on the same premises (off-street).
7. The storage of any soil, fertilizer, or similar loosely packaged materials shall be sufficiently contained to prevent any adverse effect upon adjacent properties.
8. Where the site abuts a Residential District, screening shall be provided along that property line. Grass, plant materials, and sight-obscuring fences or walls, of a type approved by the Planning Commission, shall be placed within the buffer strip. The Planning Commission shall use Section 12.04 when determining screening needs.

W. Riding Stable

1. All lots shall have a minimum of three (3) acres for the first horse with one (1) additional acre per each additional horse, not applicable to young equines below weaning age or six (6) months of age, whichever is greater.
2. Animal holding areas shall be a minimum of seventy-five (75) feet from an exterior property line or the ordinary high water mark of surface water.
3. Fencing shall be a minimum of four (4) feet in height and constructed of materials with the appropriate structural strength to restrain the animals.

4. All areas used as arenas for exercising, training, or exhibition of animals shall be maintained in a dust-free manner by an approved and acceptable means for the prevention of detrimental and nuisance effects of dust emission to surrounding properties.
5. The keeping and maintenance of horses, as provided for in this Section, shall comply with all regulations and provisions of the health and sanitation laws of the County and State. All premises and facilities upon which animals are permitted to be kept shall be maintained in a clean, orderly and sanitary condition at all times. All manure shall be removed or spread so as not to constitute a nuisance and in accord with Michigan Department of Agriculture and State and County Health Department regulations. All premises and facilities shall be treated with biologically, ecologically and environmentally approved pesticides for the control of odors, insects and rodents, which in any way can be considered a clear and present nuisance or detriment to the health safety, comfort and welfare of the general public.
6. Parking shall be provided at a minimum of one (1) parking space per two (2) animals, based on the number of horse stalls or maximum number of horses that can be accommodated in the stables.
7. Enclosed riding arenas associated with commercial equine establishments shall not exceed ten thousand (10,000) square feet in gross floor area on a minimum of ten (10) acre site, except that an additional one thousand five hundred (1,500) square feet of floor area may be permitted for each additional full acre in a lot area. No living quarters shall be located in any arena building or boarding stable.

X. Recreation Facility (outdoor).

1. The facility (e.g., go-cart, miniature golf, batting cages skateboard park and similar uses) shall be located on a minimum lot size of five (5) acres; plus an additional fifteen thousand (15,000) square feet for each one hundred (100) seating capacity or fraction thereof in excess of one hundred (100) members.
2. The facility shall have direct access to a paved collector street.
3. Access driveways shall be located no less than one hundred fifty (150) feet from the centerline of the intersection of any street or fifty (50) feet from any residential driveway.
4. The main and accessory buildings and structures shall not be located within fifty (50) feet of any Residential District.

5. All points of entrance or exit for motor vehicles shall be located no closer than one hundred (100) feet from the intersection of any two (2) streets.
6. Where the use abuts property within a Residential District, a transitional strip at least thirty (30) feet in width shall be provided along that property line. Grass, plant materials, and sight-obscuring fences or walls, of a type approved by the Planning Commission, shall be placed within the transition strip.
7. A minimum of one hundred (100) feet shall separate all uses, operation, and structures permitted herein, including fences, from any public street or highway uses for access or exit purposes. This area shall be landscaped in accordance with plans approved by the Planning Commission.
8. Where the site adjoins a Residential District, outdoor loudspeaker systems shall not be used.
9. The intensity level of sounds leaving the site shall not exceed sixty five (65) decibels (dBA) at the lot line of residential uses.

Y. Recreation Facility (indoor).

1. The location, design, and operation of billiard halls, bowling centers, etc. with amusement machines shall not adversely affect the continued use, enjoyment, and development of adjacent properties.

Z. Religious Institution.

1. The facility shall have a minimum of two hundred (200) feet of frontage and have direct access to a paved collector street.
2. The main and accessory buildings and structures shall not be located within fifty (50) feet of any Residential District.
3. Home based facilities shall have a maximum of five (5) acres that may be eligible for tax exemption with proof of use.

AA. Sawmill

1. The sawmill shall not be located closer than five hundred (500) feet to a dwelling unit other than that of the owner of the property on which the sawmill is established.
2. No storage or loading activities shall be permitted within 100 feet of any lot line.

3. The intensity level of sounds leaving the site shall not exceed sixty five (65) decibels (dBA) at the lot line of residential uses.

BB. Restaurant with Drive Through Facility

1. Sufficient stacking capacity for the drive-through portion of the operation shall be provided to ensure that traffic does not extend into the public right-of-way. A minimum of four (4) stacking spaces for each service ordering station shall be provided. Stacking spaces shall be located so as to not interfere with vehicular circulation and egress from the property or parking spaces by vehicles not using the drive-through portion of the facility.
2. In addition to parking space requirements, at least one (1) parking space shall be provided, in close proximity to the exit of the drive-through portion of the operation, to allow for customers waiting for delivery of orders.
3. Access driveways shall be located no less than one hundred (100) feet from any intersection, measured from the nearest right-of-way line to the nearest edge of said access or from the nearest edge of any other driveway.
4. Outdoor speakers for the drive through facility shall be located in a way that minimizes sound transmission toward neighboring property and uses.
5. The proposed site shall front upon a paved primary road. All ingress and egress shall be from said road.
6. The parking and maneuvering areas of the site shall be screened from the view of any abutting Residential District in accordance with the requirements of Section 12.04.

CC. Shooting or Rifle Range

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

5. Rifle and pistol ranges shall have sufficient backstop to prevent further range of a bullet or an errant shot.

DD. Vehicle Repair Facility.

1. The facility shall meet all pertinent licensing requirements of the State of Michigan, the County of Newaygo and Denver Township.
2. All buildings, structures, and equipment shall be located at least twenty (20) feet from any right-of-way line, and not less than twenty (20) feet from any side or rear lot line.
3. No part of any drive or curb opening shall be located nearer than seventy-five (75) feet to any intersection or less than fifty (50) feet from any adjacent Residential District property line. No drive shall be located nearer than seventy-five (75) feet, as measured along the property line, to any other driveway measured to the nearest part of the access driveway to the nearest part of the other driveway.
4. All lubrication equipment, hydraulic hoists, and pits shall be enclosed entirely within a building and all repair, servicing or other related activities shall take place within the building.
5. Parking and storage areas for disabled, wrecked, or partially dismantled vehicles awaiting repair shall be paved with asphalt or poured concrete, and parking of such vehicles shall not exceed a maximum of five (5) vehicles. This area shall be screened from the view of any abutting property. The Planning Commission shall approve the method of screening.
6. All outside storage areas for trash, used tires, auto parts and similar items shall be enclosed by a six (6) foot sight obscuring wall or fence. No outside storage area shall exceed an area of two hundred (200) square feet. A plan for proper disposal shall be required for all waste products incidental to this use.
7. The rental of trucks, trailers, and any other vehicles on the premises shall not occupy required setbacks or parking areas.
8. Where the site abuts a Residential District, a minimum twenty (20) foot buffer strip shall be provided along that property line. Grass, plant materials, and sight-obscuring fences or walls, of a type approved by the Planning Commission, shall be placed within the buffer strip. The Planning Commission shall use Section 12.04 when determining screening needs.
9. Where applicable, vehicle queuing space shall be provided in front of each service bay for at least two (2) vehicles.

10. Hours of operation shall not have an adverse effect on adjoining areas and be subject to Planning Commission review.
11. The applicant shall submit a Pollution Incidence Protection Plan (PIPP) as part of the application. The PIPP shall describe measures to prevent groundwater contamination caused by accidental gasoline spills or leakage, such as: special check valves, drain catch basins and automatic shut off valves.

EE. Vehicle Sales.

1. The facility shall meet all pertinent licensing requirements of the State of Michigan, the County of Newaygo and Denver Township.
2. All buildings, structures, and equipment shall be located at least fifty (50) feet from any right-of-way line, and not less than thirty (30) feet from any side or rear lot line.
3. A landscaped, planted open space of a minimum of ten (10) feet in depth shall be provided along the full frontage of the site.
4. No part of any drive or curb opening shall be located nearer than seventy-five (75) feet to any intersection or less than fifty (50) feet from any adjacent Residential District property line.
5. The Planning Commission may require a six (6) foot, solid fence, in addition to required landscaping, along a side or rear lot line abutting a Residential District.

FF. Vehicle Service Station.

1. The lot shall have direct access to a paved street.
2. Vehicle fuel stations and their accessory uses (except parking areas) and buildings shall be located not less than fifty (50) feet from any right-of-way line or from any side or rear lot line abutting a Residential District.
3. The Planning Commission may require a six (6) foot, solid wall or solid fence along a side or rear lot line abutting a Residential District.
4. Accessory vehicle related facilities located on the premises such as wash facilities, and vehicle repair are allowed, however, if required by this Ordinance, the uses shall obtain separate Special Land Use approvals as provided for in this Chapter.

5. The site shall be limited to no more than one (1) driveway for each street on which it fronts.
6. All storage of material, merchandise and equipment shall be within the building.
7. Gasoline or other flammable mixtures shall not be used to wash down the premises.
8. In the event that a vehicle fuel station has been abandoned or not used as a vehicle fuel station for a period of more than one (1) year, any application to operate the premises as a vehicle fuel station shall be considered as an application for a new vehicle fuel station.
9. The applicant shall submit a Pollution Incidence Protection Plan (PIPP) as part of the application. The PIPP shall describe measures to prevent groundwater contamination caused by accidental gasoline spills or leakage, such as: special check valves, drain catch basins and automatic shut off valves.

GG. Veterinary Hospital and Veterinary Clinic.

1. Outdoor areas in which animals are kept, such as runs, pens, and/or exercise areas shall not be located nearer than one hundred (100) feet to any Residential District and shall not be located within any required yard area.
2. Outdoor runs, pens, and/or exercise areas that face residential districts shall be screened with a six (6) foot high fence. Suitable shade, including some natural vegetation shall be provided around these outdoor areas.
3. All indoor and outdoor hospital and clinic areas, runs, pens, and/or exercise areas shall be maintained to create safe and suitable environments for animals, including the daily elimination of animal waste.

HH. Wind Energy Conversion System

These facilities may be a principal use or an accessory use on a parcel.

1. Minimum lot size for a commercial WECS shall be ten (10) acres, but a minimum of five (5) acres of site area is required for each WECS proposed within an eligible property. Minimum lot size for a non-commercial WECS shall be two (2) acres.

2. In addition to the requirements for site plan application the following information shall be include with any application of a Special Land Use for a WECS:
  - a. Location of overhead electrical transmission or distribution lines.
  - b. Location and height of all buildings, structures, towers, guy wires, guy wire anchors, security fencing, and other above ground structures associated with the WECS.
  - c. Locations and height of all adjacent buildings, structures, and above ground utilities located within three hundred (300) feet of the exterior boundaries of the site housing the WECS. The boundaries to include the outermost locations upon which towers, structures, fencing, facilities, and other items associated with a WECS are placed. Specific distances to other on-site buildings, structures, and utilities shall be provided.
  - d. A proper buffer or greenbelt to screen the use from any adjacent Residential District or use and the public road.
  - e. Existing and proposed setbacks of all structures located on the property in question.
  - f. Sketch elevation of the premises accurately depicting the proposed WECS and its relationship to all structures within three hundred (300) feet. For wind farms in which case numerous towers of similar height are planned, sketches are necessary only at borders of proposed project and when adjacent to other established structures within three hundred (300) feet.
  - g. Access road to the WECS facility with detail on dimensions, composition, and maintenance.
  - h. Planned security measures to prevent unauthorized trespass and access.
  - i. WECS maintenance programs shall be provided that describes the maintenance program used to maintain the WECS, including removal when determined to be obsolete.
3. A copy of the manufacturer's installation instruction shall be provided. Included as part of or as an attachment to the installation instructions shall be standard drawings of the structural components of the wind energy conversion system and support structures, including base and footings provided along with engineering data and calculations to demonstrate compliance with the structural design provisions of the Building Code; drawings and engineering calculations shall be certified by a registered engineer licensed to practice in the State of Michigan.
4. Each WECS shall be grounded to protect against natural lightning strikes in conformance with the National Electrical Code. Additionally, WECS electrical equipment and connections shall be designed and installed in adherence to the National Electrical Code as adopted by the Community.



5. No part of a WECS shall be located within or above any required front, side or rear yard setback of the Zoning District in which it is located.
6. WECS towers shall be setback from the closest property line one (1) foot for every one (1) foot of system height.
7. WECS shall not be located within thirty (30) feet of an above ground utility line.
8. The height of a WECS shall be measured from grade to the height of the blade in the vertical position or the highest point of the WECS, whichever is greater. Maximum height for a commercial WECS shall be two hundred (200) feet for a commercial WECS and add maximum height of one hundred and thirty (130) feet for a non-commercial WECS.
9. WECS shall be of monopole design and shall not have guy wires.
10. Colors and surface treatment of the WECS and supporting structures shall minimize disruption of the natural characteristics of the site. No part of the structure shall be used for signs or advertising.
11. Blade-arcs created by the WECS shall have a minimum of thirty (30) feet of clearance over any structure, land or tree within a two hundred (200) foot radius of the tower.
12. To prevent unauthorized climbing, WECS towers must comply with one of the following provisions:
  - a. Tower climbing apparatus shall not be located within twelve (12) feet of the ground.
  - b. A locked anti-climb device shall be installed on the tower.
  - c. Tower capable of being climbed shall be enclosed by a locked, protective fence at least six (6) feet high.
13. Each WECS shall have one (1) sign, not to exceed two (2) square feet in area posted at the base of the tower. The sign shall contain the following information:
  - a. Warning high voltage.
  - b. Manufacturer's name.
  - c. Emergency phone number.
  - d. Emergency shutdown procedures.
14. WECS shall not have affixed or attached any lights, reflectors, flashers or any other illumination, except for illumination devices required by Federal regulations.
15. WECS shall be designed and constructed so as not to cause radio and television interference.

16. Noise emanating from the operation of WECS shall not exceed sixty-five (65) decibels, as measured on the dBA scale, measured at the nearest property line. Estimates of noise levels shall be provided by applicant for property lines for normal operating conditions.
17. Any proposed WECS shall not produce vibrations humanly perceptible beyond the property on which it is located.
18. The on-site electrical transmission lines connecting the WECS to the public utility electricity distribution system shall be located underground.
19. The WECS shall be located and designed such that shadow flicker will not fall on, or in, any existing residential structure.
20. The Community hereby reserves the right upon issuing any WECS special land use permit to inspect the premises on which the WECS is located. If a WECS is not maintained in operational condition and poses a potential safety hazard, the owner shall take expeditious action to correct the situation.
21. Any WECS which are not used for six (6) successive months shall be deemed abandoned and shall be dismantled and removed from the property at the expense of the property owner. The Community shall require a performance guarantee.

## II. Wireless Communication Tower

1. The tower shall be of a monopole design unless an alternative design can be presented that blends suitably in the Township landscape.
2. The tower shall be set back from all lot lines a minimum distance equal to one-half ( $\frac{1}{2}$ ) the height of the tower. All other buildings, structures, and guy wires shall meet the minimum setback requirements of the Zoning District.
3. A security fence at least six (6) feet in height shall be constructed around the tower and supports.
4. Where possible, joint use of tower facilities, including Township elevated storage tanks, shall be required in order to minimize the number of separate towers and individual locations throughout the Township. As a condition of approval, the applicant shall agree to permit future users to share the tower facility and shall demonstrate that it is not feasible to locate the proposed tower on public lands or co-locate on an existing tower.

5. Unless located on the same site or tower with another user, no new tower shall be erected within a one-half ( $\frac{1}{2}$ ) mile radius of an existing radio, television, cellular, or wireless communications tower.
6. No signs, except warning or other cautionary signs shall be permitted on the site.

**CHAPTER 14**  
**ZONING BOARD OF APPEALS**

**SECTION 14.01 MEMBERSHIP AND PROCEDURES**

- A. The Zoning Board of Appeals (ZBA) shall consist of three (3) members appointed by the Supervisor, who shall serve terms of three (3) years, except for members who are also on the Planning Commission or Township Board, who shall serve only as long as they are members of those bodies.
- B. A member of the Planning Commission shall be a member of the ZBA, while a member of the Township Board may be a member of the ZBA, and the remaining members selected and appointed by the Supervisor from the electors of the Township. A Township Board member may not be chairperson of the ZBA.
- C. Meetings shall be held at the call of the Chairperson, and at other times as the ZBA in its rules of procedure may specify. The Chairperson, or in their absence, the acting Chairman, may administer oaths and compel the attendance of witnesses.
- D. All meetings of the ZBA shall be open to the public. The ZBA shall maintain a record of its proceedings, which shall be filed in the office of the Township Clerk, and shall be a public record.
- E. Alternates
  - 1. The Township Board may appoint up to two (2) alternate members for the same term as regular members of the ZBA.
  - 2. An alternate member may be called to sit as a regular member of the ZBA to serve in place of a regular member for the purpose of reaching a decision in a case where the regular member has abstained for reasons of conflict of interest.
  - 3. The alternate members of the Board of Appeals may be called to sit as regular members of the Board of Appeals, if a regular member is absent from one (1) or more meetings of the Board of Appeals. An alternate member may also be called to serve in the place of a regular member for reasons of conflict of interest.
  - 4. The alternate member having been called to serve on a case shall serve on that case until a final decision has been made. The alternate member shall have the same voting rights as a regular member of the Board of Appeals.
  - 5. The records maintained by the Board of Appeals shall reflect the attendance and participation of an alternate member.

## **SECTION 14.02 INTERPRETATIONS**

The Zoning Board of Appeals shall have the power to hear and decide, in accordance with the provisions of this Ordinance, applications for interpretations of this Ordinance, and may make decisions on any other questions on which the ZBA is authorized to pass. In exercising all of its powers, the ZBA shall apply the standards of this Section.

- A. Text Interpretations: The ZBA may hear and decide upon requests for the interpretation of the provisions of this Ordinance. In deciding text interpretations, the ZBA shall be governed by the following rules.
  - 1. Text interpretations shall be narrow and address only the situation to be interpreted, be based on a thorough reading of this Ordinance and not have the effect of amending this Ordinance.
  - 2. Interpretations shall give weight to practical interpretations by the Zoning Administrator if applied consistently over a long period of time.
  - 3. Records shall be kept of all interpretations.
  - 4. Where the intent of this Ordinance is unclear and the facts cannot be read to support only one (1) interpretation, the benefit of doubt shall go to the property owner.
  - 5. Nothing contained in this Section shall be construed to give or grant to the ZBA the power or authority to alter or change the language of this Ordinance.
- B. Map Interpretations: When there is any question as to the location of any boundary line between Districts, upon a request for an interpretation of the zoning map, the ZBA shall establish the boundary based upon the map and all available information relating thereto and shall establish the boundaries to carry out the intent and purposes of this Ordinance and the Master Plan.

## **SECTION 14.03 APPEALS**

- A. Upon application, the ZBA shall hear and decide appeals from and review any order, requirements, decision or determination made by the Zoning Administrator or other official or body charged with the administration of this Ordinance. Any person aggrieved, or any officer, department or board of the Township may make an appeal to the ZBA. The grounds of every appeal shall be stated in writing as part of the application.
- B. An application for appeal shall be filed within fourteen (14 days) after the date of the decision that is the basis of the appeal. The appellant shall file a notice of appeal and a fee with the Zoning Administrator. The notice shall specify the nature and grounds of the appeal and the application fee be

submitted in an amount as established by the Township Board from time to time.

- C. The Zoning Administrator shall transmit to the ZBA all the papers constituting the record upon which the action being appealed was taken.
- D. An appeal stays all proceedings from furthering the action being appealed unless the Zoning Administrator certifies to the ZBA that a stay would, in their opinion, cause imminent peril to life or property, in which case proceedings shall not be stayed other than by a restraining order which may be granted by the ZBA or by the Circuit Court.
- E. The ZBA shall fix a reasonable time for the hearing of the appeal, and give due notice to all property owners and occupants within three hundred (300) feet of the subject property via a letter sent first class mail within ten (10) days of the public hearing the time and place of the hearing. Any party may appear in person or by agent. A public hearing shall also be published in a newspaper of general circulation not less than fifteen (15) days before the public hearing.
- F. Following the public hearing, the ZBA shall decide the matter within a reasonable time. 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 in the premises, and to that end shall have all the powers of the Zoning Administrator and may issue or direct the issuance of a permit.

#### **SECTION 14.04 VARIANCES**

- A. Non-Use (Dimensional) Variances: The ZBA may authorize upon written application in specific cases variances from the terms of this Ordinance where, owing to special conditions related to the applicant's property, a literal enforcement of the provisions of this Ordinance would result in a practical difficulty to the applicant. A variance from the terms of this Ordinance shall not be granted by the ZBA unless and until a written application for a variance is submitted and the ZBA finds:
  - 1. That there are exceptional or extraordinary circumstances or conditions applying to the property in question that do not apply generally to other properties in the same Zoning District. Exceptional or extraordinary circumstances or conditions include:
    - a. Exceptional narrowness, shallowness or shape of a specific property on the effective date of this Chapter; or
    - b. By reason of exceptional topographic conditions or other extraordinary situation on the land, building or structure; or

- c. By reason of the use or development of the property immediately adjoining the property in question, whereby the literal enforcement of the requirements of this Ordinance would involve practical difficulties; or
    - d. Any other physical situation on the land, building or structure deemed by the ZBA to be extraordinary.
  - 2. That the condition or situation of the specific piece of property for which the variance is sought is not of so general or recurrent a nature as to make reasonably practical the formulation of a general regulation for such conditions or situations.
  - 3. That the variance is necessary for the preservation and enjoyment of a substantial property right similar to that possessed by other properties in the same zoning district and in the vicinity. The possibility of increased financial return shall not of itself be deemed sufficient to warrant a variance.
  - 4. The variance will not be significantly detrimental to adjacent property and the surrounding neighborhood.
  - 5. The variance will not impair the intent and purpose of this Ordinance.
  - 6. That the immediate practical difficulty causing the need for the variance request was not created by any affirmative action of the applicant.
  - 7. That the reasons set forth in the application justifies the granting of the variance and that the variance is the minimum variance necessary.
- B. Use Variances: Use variances are prohibited.

**SECTION 14.05 APPLICATIONS AND HEARINGS**

- A. Applications for variances shall be submitted to the Zoning Administrator who will review the application for completeness and validity, then transmit it to the Zoning Board of Appeals. Applications not meeting the requirements shall be returned to the applicant for completion.
- B. A valid application for a variance to the ZBA shall consist of the following:
  - 1. Seven (7) copies of a site plan drawn to scale, which is sufficient to describe the nature of the request.
  - 2. A completed application form as provided by the Township.

3. Payment of an application fee, in accordance with a fee schedule, as determined by the Township Board from time to time.
4. An escrow deposit if deemed necessary.
5. A legal description and/or parcel number of the entire property that is the subject of the request.
6. A statement with regard to compliance with the standards of Section 14.04, as applicable.
7. Other materials as may be required by the ZBA.

#### **SECTION 14.06 DECISIONS OF THE ZBA**

- A. The concurring vote of a majority of the members of the ZBA shall be necessary to reverse any order, requirement, decision, or determination of any administrative official or body or to decide in favor of the appellant on any matter. The ZBA shall render its decision upon any appeal or application submitted to it within a reasonable time after the hearing thereon.
- B. The ZBA may require a performance guarantee and/or impose reasonable conditions in conjunction with approval of an appeal, variance, or any other decision that they are required to make. Conditions shall be imposed in a manner in accordance with the Zoning Act and be related to the standards by which the decision is reached.
- C. All decisions of the ZBA shall become final at the entry of an order, or at the adoption of the minutes, unless the ZBA shall find, and so certify on the record, that it is necessary to cause the order to have immediate effect, in order to preserve property or personal rights.
- D. For each decision of the ZBA a record shall be prepared including at a minimum, the following items:
  1. Description of the applicant's request.
  2. The ZBA's motion and vote.
  3. A summary or transcription of all competent material and evidence presented at hearing; and,
  4. Any conditions attached to an affirmative decision.
- E. The decision of the ZBA shall be final. However, a person having an interest affected by the decision of the ZBA may appeal to the Circuit Court. Upon appeal, the Circuit Court shall review the record in accordance with the requirements of the Zoning Act. The court may affirm, reverse, or modify the



decision of the ZBA, or may remand the decision to the ZBA for further hearings or action.

F. Period of Validity

1. No variance granted by the ZBA shall be valid for a period longer than twelve (12) months, from the date of its issuance if not used. However the applicant may, upon written request, seek up to one (1) twelve (12) month extension of the variance from the ZBA. The ZBA may grant an extension provided that the original circumstances authorizing the variance have not changed and that the circumstances creating the need for the extension were reasonably beyond the control of the applicant.

**SECTION 14.07 PERFORMANCE GUARANTEE**

The Zoning Board of Appeals may require a performance guarantee in accordance with Section 16.04 to insure compliance with any conditions associated with the granting of a variance.

**SECTION 14.08 RE-SUBMISSION**

- A. No variance request which has been decided by the ZBA shall be submitted for reconsideration within a one (1) year period from the date of the original application unless the ZBA finds that at least one of the following conditions exists:
- B. That the conditions involving all of the reasons for the original denial have been significantly altered; or
- C. That new conditions or circumstances exist which change the nature of the original request.

## **CHAPTER 15 SIGNS**

### **SECTION 15.01 INTENT AND PURPOSE**

These Sign Standards are adopted pursuant to MCL 252.304 of the Highway Advertising Act of 1972, to preserve the public health, safety, and welfare of the township and further, to:

- A. Maintain and enhance the æsthetics of the township.
- B. Enhance pedestrian and traffic safety.
- C. Limit the intrusion of visual messages.
- D. Minimize the adverse effects of signs on nearby public and private property.
- E. Minimize driver distraction.
- F. Encourage native plants and landscaping material.
- G. Avoid excessive signage.
- H. Protect and enhance the scenic views and natural landscapes.
- I. Protect and enhance economic viability by assuring aesthetic appeal for tourists, resorters, visitors, and residents.
- J. Promote the use of aesthetically pleasing Sign materials and colors.
- K. Avoid obstacles, distractions, or traffic hazards which impair a traveler's ability to see pedestrians, traffic signs, or vehicles.
- L. Preserve the right to enjoy scenic amenities.
- M. Preserve public health, safety, and welfare.
- N. Enhance the effectiveness of necessary directional and warning signs.
- O. Enhance air movement and natural light.
- P. Preserve property values.
- Q. Provide for the effectiveness of Permitted Signs.
- R. Reduce the blighting influence of Signs.
- S. Protect the night sky from stray lighting.
- T. Avoid adverse lighting or reflection.
- U. Require structurally safe Signs.

The Standards in this Ordinance are determined to be the minimum necessary to achieve the above stated purposes.

### **SECTION 15.02 SIGNS AUTHORIZED WITHOUT A SIGN PERMIT**

Subject to other applicable requirements and permits, the following Signs are authorized without a Sign Permit:

- A. Small Sign. One Sign per Parcel, not illuminated, and not exceeding four square feet in area. The Sign may not exceed a height of forty-two inches (42") above ground level. Only one such sign is permitted for each Parcel. This Sign may carry any lawful message.

- B. Directional Signs. Directional Signs are permitted, however: Only one entrance/exit Directional Sign per legal driveway. A Directional Sign may not exceed 1.5 square feet.
- C. Flags. Two governmental flags are permitted per Parcel. A flag pole may not exceed 30 feet above ground level. Non-governmental flags are Signs subject to this Ordinance.
- D. Warning Signs. Signs exclusively devoted to warning the public of dangerous conditions and unusual hazards such as drop offs, high voltage, fire danger, and explosives, are permitted. Warning Signs may not exceed three square feet.
- E. Historical Site Signs. A Sign erected by a government agency which exclusively denotes a government-recognized historical site is permitted. This Sign shall not exceed four square feet.
- F. Portable Signs. Portable/moveable Signs such as wheeled devices and sandwich boards may be displayed for no more than 15 days in any 60 days period.
- G. Special Event Signs. Separate Special Event Signs are not permitted. Special Events signage may, however, be displayed over or as a part of otherwise Permitted Signs but must be removed within 10 days after the special event.

### **SECTION 15.03 SIGNS AUTHORIZED WITH A SIGN PERMIT**

The Township may issue a Permit for Signs in accordance with the following provisions.

- A. Commercial/Retail Wall and Ground Signs. One Wall Sign and one Ground Sign are permitted for each commercial/retail Parcel. Such signs shall not exceed ten percent (10%) of the area of the front face of the building on the Parcel, or 100 square feet, whichever is less. A Ground Sign may not exceed a height of ten (10) feet above the uniform finished grade. Signs may be placed inside the window areas of buildings in commercial or retail zones. The Sign area may not exceed ten percent (10%) of the area of the window. The Window Sign area shall be deducted from Sign area permitted on the Parcel.
- B. Office Wall or Ground Signs. One Wall Sign or one Ground Sign is permitted for each office Parcel. Such Signs shall not exceed ten percent (10%) of the area of the front face of the building on the Parcel, or fifty-six (56) square feet, whichever is less. A Ground Sign may not exceed a height of five (5) feet above the uniform finished grade.
- C. Industrial/Manufacturing Wall or Ground Signs. One Wall Sign or one Ground Sign is permitted for each industrial/manufacturing Parcel. Such Signs shall

not exceed ten percent (10%) of the area of the front face of the building on the Parcel, or fifty-six (56) square feet, whichever is less. A Ground Sign may not exceed a height of five (5) feet above the uniform finished grade.

- D. Agricultural/Commercial Wall and Ground Signs. Up to two Wall or Ground Signs are permitted for each agricultural/commercial Parcel. The aggregate area of the total signage shall not exceed fifty-six (56) square feet. A Ground Sign may not exceed a height of five (5) feet above the uniform finished grade.
- E. Residential Neighborhood Identification Signs. A Residential Neighborhood (Single-Family Subdivision, Multiple-Family, Attached Housing Development, etc.) is permitted to have one Residential Neighborhood Identification Sign for each entrance street. Such signs shall not extend into any public right-of-way. The Sign and structure shall not exceed fifty-six (56) square feet. The height of the Sign may not exceed five (5) feet above the uniform finished grade.
- F. Non-Dwelling Use Signs. A Non-Dwelling Use in a residential area, such as a school, a religious facility, an institutional use, a club house, etc., is permitted to have one Ground Sign and one Wall Sign, neither of which shall exceed fifty-six (56) square feet in area. The area of the structural elements supporting a Ground Sign shall not exceed fifty percent (50%) of the area of the message portion of the Sign. The height of a Ground Sign may not exceed five (5) feet above uniform finished grade.

#### **SECTION 15.04 SIGN PERMIT REQUIREMENTS**

- A. Permit. A Permit is not required for "Signs Authorized without a Permit." A Permit must first be obtained from the Zoning Administrator for all other Signs.
- B. Application. Applications for Sign Permits shall be made upon a form provided by the Township for this purpose. The Application shall contain the following information:
  - 1. Name, address, phone, and if available, fax and e-mail, of the Person applying for the Permit.
  - 2. Name, address, phone, and if available, fax and e-mail, of the Person owning the Parcel upon which the Sign is proposed to be placed.
  - 3. Location of the building, structure, and Parcel on which the Sign is to be attached or erected.
  - 4. Position of the Sign in relation to nearby buildings, structures, property lines, and existing or proposed rights-of-way.
  - 5. Two copies of the plans and specifications. The method of construction and/or attachment to a building, or in the ground, shall be explained in the plans and specifications.

6. Copy of stress sheets and calculations, if deemed necessary by the Zoning Administrator, showing the structure as designed for dead load and wind pressure.
  7. Name, address, phone, and if available, fax and e-mail of the Person erecting the Sign.
  8. Insurance policy as required by this Ordinance.
  9. Such other information as the Zoning Administrator may require to show compliance with this Sign Ordinance, and any other applicable laws.
  10. The seal or certificate of a registered structural or civil engineer, when required by the Zoning Administrator.
  11. The zoning district in which the Sign is to be placed.
  12. A notice stating: "Any change in the information in this Application, such as a change of address, shall be submitted to the Zoning Administrator within 7 days after the change."
- D. Permit Fees. Permit Fees for Signs shall be established by the governing body of this Municipality. The Permit Fees must relate to the cost of issuing the permit and may vary based on the size, type, and height of the Sign.
- E. False Information. A Person providing false information under this Ordinance may be guilty of a misdemeanor.

### **SECTION 15.05 PROHIBITED SIGNS**

The following limitations, obligations, and prohibitions apply to all Signs:

- A. Absence of Permit. Any Sign for which a Permit has not been issued and which is not a Permitted Sign is prohibited.
- B. Roof Signs and Projecting Signs. Roof Signs and Projecting Signs are prohibited.
- C. Public Property. No portion of a privately-owned Sign, or its supporting structures, such as poles or cables, shall be placed on, or within the air space above, publicly owned property, a public right-of-way (such as a street or sidewalk), or a proposed public right-of-way.
- D. Scrolling Electronic Signs. A scrolling electronic Sign is prohibited.
- E. Traffic Interference. A Sign (other than a traffic sign installed by a governmental entity) shall not simulate or imitate the size, lettering or design or any traffic sign in such manner as to interfere, mislead, or confuse the public.
- F. Parked Vehicle. Any Sign on a motor vehicle or trailer which is parked in a position visible to traffic on a public road or parking area for a period longer than six days in a 60-day period is prohibited.

- G. Internally Illuminated – Lit Background Signs. Signs with transparent or lit background color are prohibited.

### **SECTION 15.06 CONSTRUCTION REQUIREMENTS**

- A. Material. Where feasible, Signs should be made of weather resistant material.
- B. Codes. All Signs shall conform to the latest edition of the applicable building and electrical codes.
- C. Fastenings. All Signs must remain safe and secure during the period of use. All parts of the Signs, including bolts and cables, shall remain painted, and free of corrosion.
- D. Internally Lit Light Background Sign. Internally lit Signs with a transparent or light background color are prohibited. Dark background internally illuminated Signs are permitted when in compliance with other provisions of this Ordinance.
- E. Lighting. External lighting shall be shielded from view and shall be focused upon the Sign to avoid stray lighting. Flashing, rotating, and intermittent lighting are prohibited.
- F. Identification. All Signs for which a Permit is required shall have a permit number on the Sign.
- G. Proximity to Electrical Conductors. Signs and all supporting structures shall be no closer to electrical utilities than is permitted by applicable codes. No Sign, including cables and supports, shall, in any event, be within six feet (6') of any electrical conductor, electrical light pole, electric street lamp, traffic light, or other public utility pole.
- H. Sanitation. Property surrounding any Ground Sign shall be maintained in a clean and sanitary condition. It shall be free from weeds, rubbish, and flammable material.
- I. Landscaping. The area beneath and around a Sign shall be landscaped with native plants and material so as to complement the site and integrate the Sign with buildings, parking areas, and natural site features.
- J. Responsibility for Compliance. The Owner of the Parcel on which a Sign is placed and the Person maintaining the Sign are each fully responsible for the condition and the maintenance of the Sign, and the area around the Sign.

## **SECTION 15.07 NONCONFORMING SIGNS**

- A. Intent. This Ordinance is intended to encourage the eventual elimination of Signs which do not comply with the Ordinance. The elimination of non-conforming Signs is as much a subject of health, safety, and welfare as is the prohibition of new Signs in violation of this Ordinance. Therefore, this Ordinance attempts to realize the removal of non-conforming Signs and to avoid any unreasonable invasion of established property rights.
- B. Amortization. A Sign not complying with this Ordinance, but in place on the effective date of this Ordinance, shall be removed, or brought into compliance with this Ordinance, within five (5) years after the Effective Date of this Ordinance.
- C. Permit. Within ninety (90) days after the Effective Date of this Ordinance, the Person owning a Non-Conforming Sign shall apply for a Permit to the Township. The Township shall issue the Permit for not more than five (5) years.
- D. Continuance. A non-conforming Sign may be continued during the Amortization period if it is maintained in good condition. It shall not, however, be replaced by another non-conforming Sign. It may not be structurally altered so as to prolong the life of the Sign. It may not be reestablished after damage or destruction if the Township determines that the estimated cost of reconstruction exceeds 50% of the estimated replacement cost.
- E. Nuisance. An unsafe or Abandoned Sign is declared a public nuisance which shall be abated.

## **SECTION 15.08 FIRST AMENDMENT PROTECTION**

The placement of Directional Signs, Residential Neighborhood Signs, Historical Site Signs, and Flags is specifically authorized in this Ordinance. All other Signs allowed under this Ordinance may contain any lawful message.

## **SECTION 15.09 ADMINISTRATION**

- A. Enforcement. The Township shall issue Permits, as required by this Ordinance. The Township shall also ensure Signs comply with this Ordinance and any other applicable law. The Township shall also enforce the requirement that all Signs properly comply with this Ordinance by procuring a Permit. The Township shall make such inspections as may be necessary and shall initiate appropriate action to enforce compliance with this Ordinance and other applicable Sign laws.

- B. Township Powers. The Township shall have the power and authority to administer and enforce this Ordinance. Included among such powers are the following specific powers:
1. Every Sign for which a Permit is required shall be subject to the inspection and approval of the Township. When deemed advisable, a Sign may be inspected at the point of manufacture.
  2. Upon presentation of proper identification to the Sign Owner or Owner's agent, the Township may enter the Sign area for purposes of inspecting the Sign, Sign structure, and any fasteners securing the Sign to a building or support. In cases of emergency, where imminent hazards to persons or property are known to exist, and where the Sign Owner, or Owner's agent, is not readily available, the Township may enter the Sign area for purposes of inspection or remediation. When on private Property, the Township shall observe rules and regulations concerning safety, internal security, and fire protection. If the Township is denied admission to inspect any Sign, inspection shall be made only under authority of a warrant issued by a court of proper jurisdiction. When applying for such warrant, the Township shall submit an affidavit setting forth a belief that a violation of this Ordinance exists with respect to a particular Sign, and the reasons for forming this belief. The affidavit shall designate the place and name of the Person believed to own or possess the Sign. If the court finds probable cause exists for the search of the Sign, and supporting structures, then a warrant authorizing the search shall be issued. The warrant shall describe the property with sufficient certainty to identify the same. This warrant shall constitute authority for the Township to enter the Sign area and to inspect the property.
  3. Upon issuance of a Stop Order from the Township, work on any Sign that is being conducted in any manner contrary to this Ordinance shall be immediately stopped. This notice and order shall be in writing and shall be given to the Owner of the Parcel, the Sign Owner, or to the person performing the work. The Stop Order shall state the conditions under which work may be resumed. The Township shall have authority to enforce a Stop Order.
  4. The Township has the authority to revoke any Permit authorized by this Ordinance if the Sign violates this Ordinance or another law, provided that the Township shall offer the Sign Owner an opportunity to be heard. The Person whose Permit is under consideration shall be given at least ten (10) days' written notice of the time, place, and reason for the hearing. The Sign Owner and/or Person identified in the Permit shall be permitted to present relevant facts and legal argument concerning the pending revocation. Following this hearing, the Township shall consider the merits of the case and shall present a written opinion prior to any action. If, however, the Township believes the health, safety, or welfare of the citizens is endangered by any violation of this Ordinance, the Township may immediately revoke any Sign Permits.



5. A Sign installed after the effective date of this Ordinance, and not conforming to this Ordinance, shall be removed by the Owner. The Sign Owner shall not be entitled to compensation for the Sign removal and shall reimburse the Township for any costs incurred in connection with the removal.

**CHAPTER 16  
ADMINISTRATION**

**SECTION 16.01 ADMINISTRATION AND ENFORCEMENT**

An administrative official who shall be known as the Zoning Administrator shall be designated by the Township Board to administer and enforce this Ordinance. The administrator may be provided with the assistance of other persons as the Township Board may direct.

If the Zoning Administrator shall find any of the provisions of this Ordinance are being violated, he shall notify in writing the person responsible for the violations, indicating the nature of the violation and ordering the action necessary to correct it. He shall order discontinuance of illegal use of land, buildings or structures; removal of illegal buildings or structures or of illegal additions, alterations or structural changes; discontinuance of any illegal work being done; or shall take any other action authorized by this Ordinance to ensure compliance with or to prevent violation of its provisions.

**SECTION 16.02 ZONING ADMINISTRATOR DUTIES**

- A. The Zoning Administrator shall have the authority to issue zoning compliance permits in accordance with the requirements of this Ordinance.
- B. It shall be unlawful to change the type of use of land, or to change the type of use or type of occupancy of any building, or to extend any use on any lot on which there is a non-conforming use, until the Zoning Administrator has determined the change to be in compliance with applicable provisions of this Ordinance and issued a zoning compliance permit.
- C. The Zoning Administrator shall evaluate the structure, plans, specification and intended use of any structure. Documented approval shall be provided once the Zoning Official has determined that such structure complies in all respects with this ordinance. Prior to this approval, it shall be unlawful to commence land clearing or excavation for the construction, relocation, or repair of any structure regulated by this ordinance.
- D. The Zoning Administrator shall not approve the issuance of a zoning permit if all final plans, development agreements, escrow fees and any required performance guarantees are not provided to the Township.
- E. It shall be unlawful for the Zoning Administrator to approve any plans or issue a zoning compliance permit for any excavation or construction or use until the Zoning Administrator has inspected the plans in detail and found them in compliance with this Ordinance.
- F. Issuance of a zoning compliance permit shall in no case be construed as waiving any provision of this Ordinance.

- G. The Zoning Administrator may refuse to issue a Zoning Compliance Permit if the subject property is in violation of any Township ordinance.
- H. The Zoning Administrator shall not refuse to issue a permit when the applicant complies with conditions imposed by this Ordinance and all other applicable Township, County, and State regulations. Violations of contracts, such as covenants or private agreements, which may result upon the granting of the permit, are not cause for refusal to issue a permit.
- I. When the Zoning Administrator receives an application for a zoning compliance permit, which requires Planning Commission, Township Board, or Zoning Board of Appeals approvals, the Zoning Administrator shall so inform the applicant.
- J. A zoning compliance permit shall not be issued until all applicable fees, charges and expenses have been paid in full.
- K. The Zoning Administrator is not, under any circumstance, permitted to grant exceptions to the actual meaning of any clause, order, or regulation contained in the Ordinance to any person making application to excavate, construct, move, alter or use either buildings, structures or land.
- L. The Zoning Administrator shall have the authority to make inspections of buildings or premises necessary to carry out his duties in the enforcement of the Ordinance.
- M. The Zoning Administrator may not make changes to this Ordinance or to vary the terms of this Ordinance in carrying out his duties.
- N. The Zoning Administrator shall require every application for a Building Permit for excavation, construction, moving, alteration or change in type of use or type of occupancy, be accompanied by a site plan prepared that demonstrates compliance with the Zoning Ordinance.
- O. If a proposed excavation, construction, moving or alteration or use of land as set forth in the application is in conformity with the provisions of this ordinance and in conformance with the provisions of the building code, the Zoning Administrator shall permit a building permit to be issued, provided all other requirements for the permit are satisfied. If the Zoning Administrator does not approve an application for the permit, the reasons for the rejection shall be stated in writing on an appropriate form.
- P. The Zoning Administrator may accept a preliminary application and a lesser number of submitted documents than those required by this Ordinance in situations where basic clarification is desired before proceeding with the further technical work; and the Zoning Administrator may on a preliminary submittal indicate tentative denial or tentative approval.

**SECTION 16.03 SCHEDULE OF FEES, ESCROW CHARGES AND EXPENSES ESTABLISHED BY TOWNSHIP**

- A. The Township Board shall by resolution establish a schedule of application fees, charges and expenses and a collection procedure for zoning compliance permits, Certificates of Occupancy, appeals, Special Land Uses, variances, site plan reviews, rezoning applications and other matters pertaining to this Ordinance. The schedule of fees shall be available in the office of the Zoning Administrator and may be amended only by the Township Board.
- B. In addition to established application fees, the Zoning Administrator may also require an applicant to submit to the Township (prior to the reviews of an application or proposed site plan) an amount of money determined to be a reasonable estimate of the fees and costs which may be incurred by the Township in reviewing and acting upon any such application or related matters.
- C. The Township may use these escrow fees to seek expert consultation and advice including but not limited to legal, planning and engineering professionals regarding the application. The amount of the deposit shall be based on a reasonable estimate to provide such services. Any unused portions of this fee shall be returned to the applicant after the Township has paid all costs for consultant services.

**SECTION 16.04 PERFORMANCE GUARANTEE**

- A. As a condition of approval of a site plan review, Special Land Use, or variance, or other approvals authorized by this Ordinance, the Township Board, Planning Commission, Zoning Board of Appeals, or Zoning Administrator may require a performance guarantee of sufficient sum to assure the installation of those features or components of the approved activity or construction which are considered necessary to protect the health, safety, and welfare of the public and of users or inhabitants of the proposed development.
- B. The features or components, hereafter referred to as "improvements," may include, but shall not be limited to, survey monuments and irons, streets, curbing, landscaping, fencing, walls, screening, lighting, drainage facilities, sidewalks, paving, driveways, utilities, and similar items.
- C. Performance guarantees shall be processed in the following manner:
  - 1. Prior to the issuance of a building permit, the applicant or their agent shall submit an itemized cost estimate of the required improvements that are subject to the performance guarantee, which shall then be reviewed and approved by the Zoning Administrator.

2. The amount of the performance guarantee shall be not more than one hundred percent (100%) of the cost of purchasing of materials and installation of the required improvements, including the cost of necessary engineering and inspection costs and a reasonable amount for contingencies.
3. The required performance guarantee shall be payable to the Township and may be in the form of a cash deposit, certified check, irrevocable bank letter of credit, or surety guarantee acceptable to the Township.
4. The Zoning Administrator shall not sign off on the issuance of a zoning permit until all final plans, development agreements, escrow fees and any required performance guarantees are provided.
5. The Zoning Administrator, upon the written request of the obligor, shall rebate portions of the performance guarantee upon determination that the improvements for which the rebate has been requested have been satisfactorily completed. A portion of the performance guarantee shall be rebated in the same proportion as stated in the itemized cost estimate for the applicable improvements.
6. When all of the required improvements have been completed, the obligor shall send written notice to the Zoning Administrator of completion of the improvements. Thereupon, the Zoning Administrator shall inspect all of the improvements and approve, partially approve, or reject the improvements with a statement of the reasons for any rejections.
7. If partial approval is granted, the cost of the improvement rejected shall be set forth. Where partial approval is granted, the obligor shall be released from liability pursuant to relevant portions of the performance guarantee, except for that portion sufficient to secure completion of the improvements not yet approved.
8. The Zoning Administrator shall maintain a record of required performance guarantees.

#### **SECTION 16.05 ZONING ORDINANCE AMENDMENTS**

- A. Amendment to this Ordinance may be initiated by the Township Board on its own motion or, in the manner and pursuant to the procedure hereinafter set forth, may be initiated by any person, firm or corporation filing an application therefore with the Township Board. The Planning Commission may, at its discretion, also initiate amendments to this Ordinance through the Zoning Administrator and also recommend Ordinance amendments to the Township for adoption.

- B. The following guidelines shall be considered by the Planning Commission, and may be used by the Township in consideration of amendments to the Zoning Ordinance:
1. Text Amendment:
    - a. The proposed text amendment would clarify the intent of the Ordinance.
    - b. The proposed text amendment would correct an error in the Ordinance.
    - c. The proposed text amendment would address changes to the State legislation, recent case law or opinions from the Attorney General of the State of Michigan.
    - d. The proposed text amendment would promote compliance with changes in other County, State or Federal regulations.
    - e. In the event the amendment will add a use to a district, that use shall be fully consistent with the character of the range of uses provided for within the district.
    - f. The amendment shall not create incompatible land uses within a zoning district, or between adjacent districts.
    - g. The proposed text amendment is supported by the findings of reports, studies, or other documentation on functional requirements, contemporary building practices, environmental requirements and similar technical items.
    - h. As applicable, the proposed change shall be consistent with the Township's ability to provide adequate public facilities and services.
    - i. The proposed change shall be consistent with the Township's desire to protect the public health, safety, and welfare of the community.
  2. Map Amendment (Rezoning): In making its recommendation to the Township Board, the Planning Commission shall consider the following criteria:
    - a. Whether or not the proposed rezoning is consistent with the goals, policies and future land use map of the Township Master Plan; or, if conditions have changed significantly since the Master Plan was adopted, the consistency with recent development trends in the area.

- b. Whether the proposed district and the uses allowed are compatible with the site's physical, geological, hydrological and other environmental features. The potential uses allowed in the proposed zoning district shall also be compatible with surrounding uses in terms of land suitability, impacts on the community, density, potential influence on property values and traffic impacts.
        - c. Whether, if rezoned, the site is capable of the accommodating the uses allowed, considering existing or planned infrastructure including streets, sanitary sewers, storm sewer, water, sidewalks, and street lighting.
  3. Other factors deemed appropriate by the Planning Commission.
- C. Consideration of Amendment by Township Board: Upon receipt of a report and summary of hearing comments from the Planning Commission as provided for in the Zoning Act, the Township may modify the proposed amendment or adopt it as presented by the Planning Commission. The modified language shall be referred back to the Planning Commission for additional comment.
- D. Amendment Procedure
  1. Filing of Applications: All petitions for amendments to this Ordinance shall be in writing, signed and filed with 10 copies provided to the Zoning Administrator, who will forward them to the Planning Commission.
  2. All petitions for amendments to this Ordinance, without limiting the right to file additional material, shall contain the following:
    - a. The petitioner's name, address and interest in the petition as well as the name, address and interest of every person, firm or corporation having a legal or equitable interest in the land.
    - b. The nature and effect of the proposed amendment.
    - c. If an individual property or several adjacent properties are proposed for rezoning, a location map, showing the location of the properties generally in the Township, a legal description of the land(s) proposed for rezoning, the present zoning classification(s), the zoning classification of all abutting districts, and all public and private rights-of-way and easements bounding and intersecting the land under consideration.

- d. Any changed or changing conditions in the area or in the municipality which make the proposed amendment reasonable and necessary to the promotion of the public health, safety and general welfare.
    - e. All other circumstances, factors and reasons which the applicant offers in support of the proposed amendment.
  3. The Zoning Administrator, after examining the submitted materials and approving the application as to form and content, shall refer the request to the Planning Commission for study and report to the Township Board.
  4. Before submitting its recommendations of the petition to amend, the Planning Commission shall hold at least one (1) public hearing. Written notice of the meeting will be given to land owners and occupants three hundred (300) feet of the boundary of the property to be affected application. Notice shall be given in a newspaper of general circulation not less than fifteen (15) days prior to the public hearing. The notice shall include:
    - a. The nature of the request.
    - b. The property(s) that are the subject of the request including a listing of all existing street addresses within property(s). If there are no addresses other means of identification may be used.
    - c. Location and time of the hearing.
    - d. Where and when written comments may be received.
  5. Following the public hearing, the Planning Commission shall submit the proposed amendment with its recommendation and public hearing summary to the County Planning Commission for advisory review and recommendation. The County Planning Commission has up to thirty (30) days to respond unless the County Board of Commissioners has passed a resolution waiving County right of review.
  6. The Planning Commission shall then refer the proposed amendment to the Township Board along with its summary of the public hearing and written recommendations for approval or disapproval and reasons therefore along with any response by the County Planning Commission on the proposed amendment.
  7. Upon enactment, the Zoning Ordinance, as well as subsequent amendments or supplements, shall be filed with the Township Clerk,



and one (1) notice of Ordinance adoption shall be published accordance with the requirements of the Zoning Act.

8. Within seven (7) days after publication, the amendment to the zoning ordinance shall be filed in the Official Ordinance Book of the Township with a certification of the Township Clerk stating the vote on passage and when published and filed. If the amendment requires a change on the Official Zoning Map, the change shall be made on the within ten (10) days after enactment of the amendment.

## **SECTION 16.06 ENFORCEMENT**

- A. No property, premise, lot, structure or use shall be used, erected or conducted in such a manner as to cause a nuisance to adjacent property or uses. Any structure, lot or use which violates a provision or this Zoning Ordinance shall be deemed to be a nuisance.
- B. Any building or structure which is erected, moved, placed, reconstructed, demolished, extended, enlarged, altered, maintained or changed in violation of any provision of this Ordinance is hereby declared to be a nuisance, per se.
- C. A violation of this Ordinance constitutes a civil infraction. Any person, who violates, disobeys, omits, neglects or refuses to comply with any provision of this Ordinance, or any permit or approval issued hereunder, or any amendment thereof, or any person who knowingly or intentionally aids or abets another person in violation of this Ordinance, shall be in violation of this Ordinance and shall be responsible for a civil infraction. The civil fine for a municipal civil infraction shall be not less than fifty dollars (\$50.00) or more than one hundred dollars (\$100.00) for the first offense; and not less than two hundred dollars (\$200.00) for subsequent offenses.
- D. For purposes of this Section, "subsequent offense" means a violation of the provisions of this Ordinance committed by the same person within twelve (12) months of a previous violation of the same provision of this Ordinance or similar provision of this Ordinance for which the person admitted responsibility or was adjudged to be responsible. Each day during which any violation continues shall be deemed a separate offense.
- E. The Township Board, or their duly authorized representative(s), is hereby charged with the duty of enforcing the Ordinance and are hereby empowered to commence and pursue any and all necessary and appropriate actions and/or proceedings in the Circuit Court of Newaygo County, Michigan, or any other Court having jurisdiction, to restrain and/or prevent any non-compliance with or violation of any of the provisions of this Ordinance, and to correct, remedy and/or abate the non-compliance or violation. And it is further provided that any person aggrieved or adversely affected by this

noncompliance or violation may institute suit and/or join the Township in the suit to abate the same.

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

### **SECTION 16.07 ZONING COMPLIANCE PERMIT**

- A. The Zoning Administrator shall have the authority to issue zoning compliance permits in accordance with the requirements of this Ordinance.
- B. The permit issued by the Zoning Administrator before any entity is allowed to begin a new residential or commercial building/addition/operation in the Township. The Zoning Compliance Permit may be applied for through the Zoning Administrator and, if granted, is valid for one year. One extension of a Zoning Compliance Permit for one additional year may be allowed. A second and final extension of a Zoning Compliance Permit may be granted if 75% of the overall project is proven to be completed.
- C. In addition to a Zoning Compliance permit other permits may be required by various county, state and federal entities, copies of which may be required for the property files by the Zoning Administrator or Building Inspector.

Such permits include, but may not be limited to:

1. An approved driveway permit from Denver Township, State Highway Department or Newaygo County Road Commission;
  2. Septic System Permit from the Department of Public Health;
  3. Well Permit from the Department of Public Health;
  4. Soil Erosion and Sedimentation Control permit;
  5. Electrical, mechanical and plumbing permits ;
  6. Michigan Department of Environmental Quality Permit for wetland, floodplain or inland stream modifications.
- D. Depending on the project, type of development and/or other factors, proof of various inspections and/or certifications of approval and/or completion may also required for the record by the Township.
  - E. It shall be unlawful to change the type of use of land, or to change the type of use or type of occupancy of any building, or to extend any use on any lot on which there is a non-conforming use, until the Zoning Administrator has determined the change to be in compliance with applicable provisions of this Ordinance and issued a zoning compliance permit.

- F. It shall be unlawful to commence excavation for, or construction of, any building or other structure, including an accessory building, or to commence the moving, alteration or repair of any structure, including accessory buildings, exceeding one hundred (100) square feet in floor area, until the Zoning Administrator has given documented approval of his opinion that plans, specifications and intended use of such structure does in all respects conform to the provisions of this Ordinance.
- G. It shall be unlawful for the Zoning Administrator to approve any plans or issue a zoning compliance permit for any excavation or construction or use until the Zoning Administrator has inspected the plans in detail and found them in compliance with this Ordinance.
- H. Issuance of a zoning compliance permit shall in no case be construed as waiving any provision of this Ordinance.
- I. The Zoning Administrator shall not refuse to issue a permit when the applicant complies with conditions imposed by this Ordinance and all other applicable Township, County, and State regulations. Violations of contracts, such as covenants or private agreements, which may result upon the granting of the permit, are not cause for refusal to issue a permit.
- J. When the Zoning Administrator receives an application for a zoning compliance permit, which requires Planning Commission, Township, or Zoning Board of Appeals approvals, the Zoning Administrator shall so inform the applicant.
- K. A zoning compliance permit shall not be issued until all applicable fees, charges and expenses have been paid in full.

#### **SECTION 16.08 STOP WORK ORDER**

- A. Upon notice from the Zoning Administrator that any use is being conducted or that any work on any building or structure is proceeding contrary to the provisions of this Ordinance, such work or use shall be immediately stopped. The stop work order shall be in writing and shall be given to the owner of the property involved, to owner's agent, or to the person doing the work and shall state the conditions, if any conditions, under which work or the use will be permitted to resume.
- B. Any person who shall continue to work in or about the structure, land or building or use it after having been served with a stop work order, except work that the person is directed to perform to remove a violation, shall be in violation of this Ordinance.

**SECTION 16.09 SEVERABILITY CLAUSE**

Should any section or provision of this Ordinance be declared by a court of competent jurisdiction to be unconstitutional or invalid, such decision shall not affect the validity of the Ordinance as a whole, or any part thereof other than the part so declared to be unconstitutional or invalid.

**SECTION 16.10 EFFECTIVE DATE**

The provisions of this amended Ordinance are hereby declared to be immediately necessary for the preservation of the public peace, health, safety, and welfare of the people and are hereby ordered to become effective immediately upon publication of a "Notice of Ordinance Adoption" in a newspaper circulating within the Township. Publication shall be preceded by a public hearing and by approval of Denver Township, in that order.

This Zoning Ordinance shall become effective on the 16<sup>th</sup> day of July, 2015.

I, Kristin Smith, the duly elected clerk for Denver Township, do hereby certify that the foregoing zoning ordinance was duly adopted at a regular meeting of Denver Township on June 25, 2015.

A handwritten signature in black ink, appearing to read "Kristin Smith", with a long horizontal flourish extending to the right.

**CHAPTER 17**  
**RULES OF CONSTRUCTION & DEFINITIONS**

**SECTION 17.01 RULES APPLYING TO TEXT**

If the meaning of a provision of this Ordinance is unclear in a particular circumstance, then the individual or body charged with interpreting or applying the Ordinance shall construe the provision to carry out the intent of the Ordinance, if the intent can be discerned from other provisions of this Ordinance or law.

- A. The word "shall" is always mandatory and not discretionary. The word "may" is permissive.
- B. Terms not herein defined shall have the meaning customarily assigned to them.
- C. The particular shall control the general. For terms used in this Ordinance, the use of a general term shall not be taken to be the same as the use of any other specific term. For example, a "convenience store," as used in this Ordinance, shall not be interpreted to be the same as a "retail store," since each is listed as a separate and distinct use.
- D. Words used in the present tense shall include the future; and words used in the singular number shall include the plural; and the plural the singular, unless the context clearly indicates the contrary.
- E. A "building" or "structure" also includes any part thereof.
- F. The word "person" includes an individual, a corporation, a partnership, a limited liability company or corporation, an incorporated association, or any other similar entity. A masculine term shall include the feminine version of the term and vice versa.
- G. Unless the context clearly indicates the contrary, the conjunctions noted below shall be interpreted as follows.
  - 1. "And" indicates that all connected items, conditions, provisions, or events shall apply.
  - 2. "Or," indicates that the connected items, conditions, provisions or events may apply singularly or in any combination.
  - 3. "Either...or" indicates that the connected items, conditions, provisions or events shall apply singularly but not in combination.
- H. In computing the number of days, the first day is excluded and the last day is included. If the last day of any period during which an application, filing, or request is required to be made to the Township or other governmental

agency is a Saturday, Sunday, or legal holiday, the period is extended to include the next day which is not a Saturday, Sunday, or legal holiday.

## **SECTION 17.02 DEFINITIONS – A**

### **ABANDONMENT**

The surrender, relinquishment, or cession of activity on a property that includes both the intention to abandon and the effect of abandonment which may include, but is not necessarily limited to; cessation of business activity, lack of physical occupancy, lack of property maintenance or utility service, failure to pay taxes, etc.

### **ACCESS MANAGEMENT**

A technique to improve traffic operations and safety along a major street through the control of driveway locations and design; consideration of the relationship of traffic activity for properties adjacent to and across from one another; and the promotion of alternatives to direct access.

- A. Cross Access - A method whereby access to property crosses one or more contiguous or adjacent properties. These may include driveway or parking lot connections with cross easements.
- B. Alternative Access - A means of access that is not directly to the Highway including frontage streets, rear access streets and access to existing or proposed streets.
- C. Shared Access - A method whereby adjoining property owners share a common access to a street or highway. These accesses are generally located at the common property line but may be located entirely on one property with access to another property by easement or other access agreement.

### **ACCESSORY BUILDING**

Except as otherwise specified by this Ordinance, a building or portion of a building supplementary and/or subordinate to a main building on the same lot occupied by, used, or devoted exclusively to an accessory use. When an accessory building is attached to a main building in a substantial manner, such as a wall or roof, the accessory building shall be considered a part of the main building.

### **ACCESSORY GROUND-MOUNTED SOLAR ENERGY SYSTEM**

A ground-mounted solar energy system with the purpose primarily of generating electricity for the principal use on the site.

## **ACCESSORY USE**

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

## **ADULT USES**

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

- A. Adult Bookstore - An establishment having as a significant portion of its stock in trade books, films, magazines and other periodicals which are distinguished or characterized by an emphasis on depicting or describing "Sexual Conduct" or "Specified Anatomical Areas."
- B. Adult Motion Picture Theater - An enclosed building used for presenting material distinguished or characterized by an emphasis on depicting or describing "Sexual Conduct" or "Specified Anatomical Areas."
- C. Adult Motel - A motel wherein material is presented which is distinguished or characterized by an emphasis on depicting or describing "Sexual Conduct" or "Specified Anatomical Areas."
- D. Adult Nightclub - A theater or other establishment, which features live performances by topless and/or bottomless dancers, "go-go" dancers, exotic dancers, strippers or similar entertainers, where these performances are distinguished or characterized by an emphasis on "Sexual Conduct" or "Specified Anatomical Areas."
- E. Massage Parlor - An establishment or business which provides the services of massage and body manipulation, including exercises, heat and light treatments of the body and all forms of physiotherapy, unless operated by a medical practitioner, professional physical therapist or chiropractor licensed by the State of Michigan. This definition does not include an athletic club, health club, school, gymnasium, reducing salon, spa or similar establishment where massage or similar manipulation of the human body is offered as an incidental or accessory service.
- F. Sexual Conduct - Considered to be characterized by, but not limited to, the following acts:
  - 1. Human genitals in a state of sexual stimulation or arousal;
  - 2. Acts of human masturbation, sexual intercourse or sodomy; and
  - 3. Fondling or other erotic touching of human genitals, pubic region, buttock, or female breast.

- G. Specified Anatomical Areas - Considered to be defined by, but not limited to, the following areas:
1. Less than completely and opaquely covered: human genitals, pubic region, buttock, and female breast below a point immediately above the top of the areola; and
  2. Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

## **AGRICULTURE**

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

## **AGRITOURISM (Agricultural Tourism)**

The practice of visiting an agribusiness, horticultural, or agricultural operation, including, but not limited to, a farm, orchard, winery, greenhouse, hunting preserve, a companion animal or livestock show, for the purpose of recreation, education, or active involvement in the operation, other than as a contractor or employee of the operation.

## **ANIMALS, WILD AND EXOTIC**

Any living member of the animal kingdom, including those born or raised in captivity, except the following: Domestic dogs (*excluding* hybrids with wolves, coyotes, or jackals), domestic cats (*excluding* hybrids with ocelots or margays), ferrets, rodents, caged, nonvenomous snakes, captive-bred species of common cage birds.

## **ALTERATIONS**

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

## **AVERAGE GRADE**

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



## **SECTION 17.03 DEFINITIONS – B**

### **BALCONY**

A platform that projects from the wall of a building and is surrounded by a railing or parapet.

### **BANK** (with respect to waterfront)

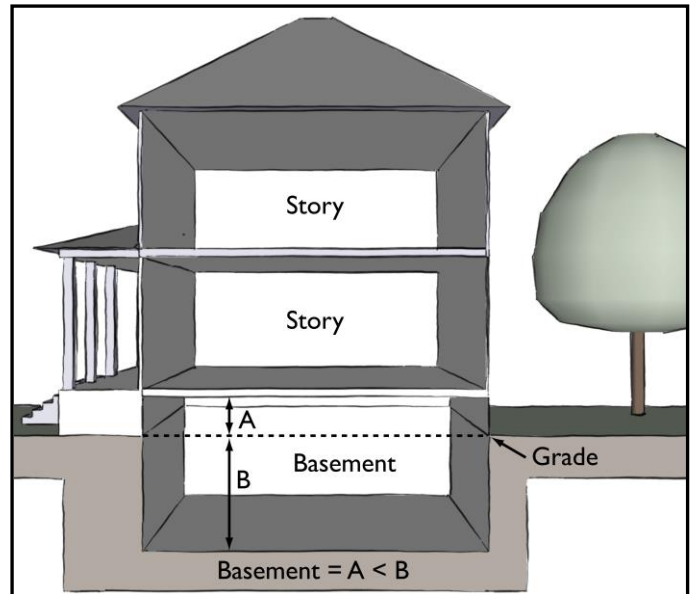
The rising ground bordering a watercourse, river, lake or reservoir.

### **BASEMENT OR CELLAR**

A portion of a building having more than one-half ( $\frac{1}{2}$ ) of its height below grade. See graphic.

### **BED & BREAKFAST ESTABLISHMENT**

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



### **BERM**

A mound of soil less than three (3) feet in height, graded, shaped and improved with landscaping in such a fashion as to be utilized for screening purposes.

### **BOARD OF APPEALS**

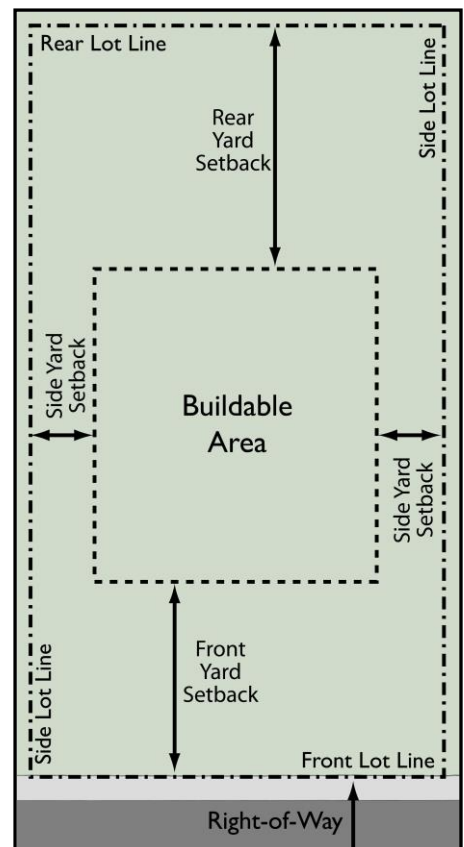
See ZONING BOARD OF APPEALS

### **BLUFF LINE**

The transition point between the steep bluff face adjacent to the White River and more level terrain at the top of a bluff.

### **BUILDABLE AREA**

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

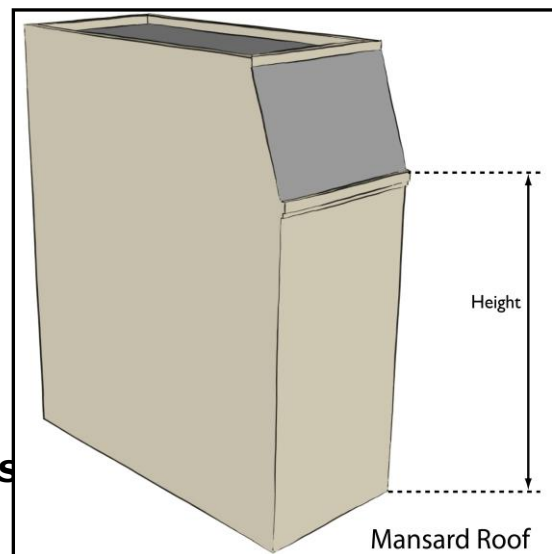
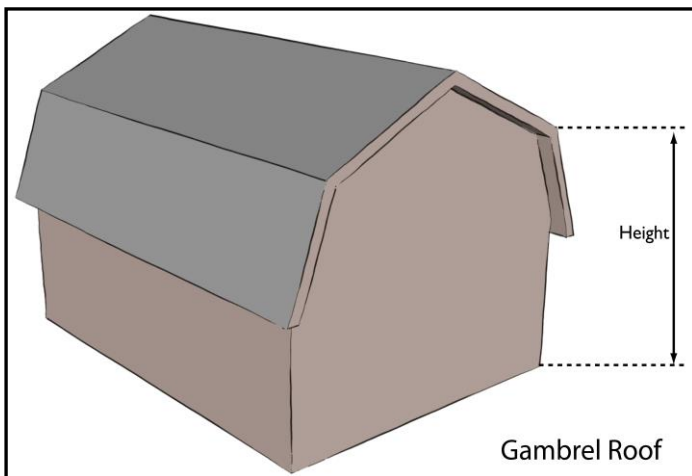
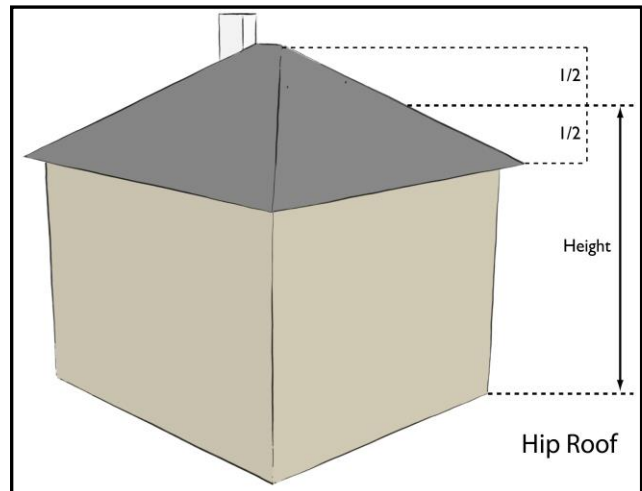
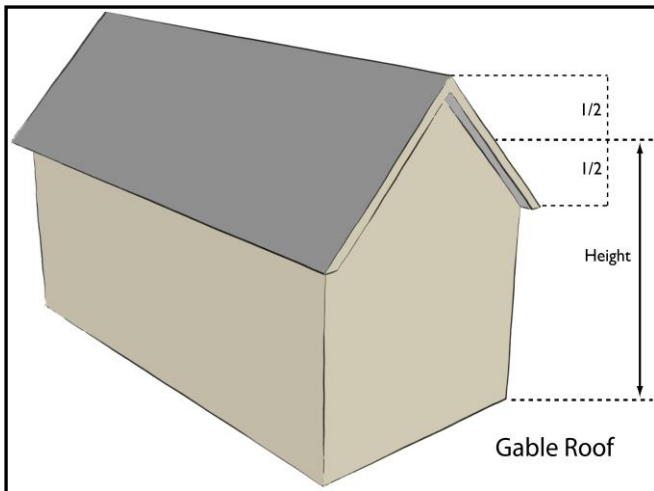


## BUILDING

An independent structure, either temporary or permanent, having a roof or canopy supported by columns, poles, walls, or any other support used for the enclosure, protection, or storage of persons, animals, objects, vehicles, or chattels, or carrying on business activities or other uses. When any portion thereof is completely separated from every other part thereof by division of walls from the ground up, and without openings, each portion of the building shall be deemed a separate building.

## BUILDING HEIGHT

The building height is the vertical distance measured from the natural grade to the highest point of the roof surface if a flat roof; to the deck of mansard roofs; and to the mean height level between eaves and ridge of gable, hip and gambrel roofs. When the terrain is sloping, the height shall be measured at the average grade. See graphics.



A solar energy system that is an integral part of a primary or accessory building or structure (rather than a separate mechanical device), replacing or substituting for an architectural or structural component of the building or structure. Building-integrated systems include, but are not limited to, photovoltaic or hot water solar energy systems that are contained within roofing materials, windows, skylights, and awnings.

## **BUILDING, MAIN**

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

## **SECTION 17.04 DEFINITIONS – C**

### **CAMPGROUND**

A publicly or privately owned establishment intended or used for the purpose of supplying a location for overnight camping.

### **CANOPY TREE**

A deciduous tree whose mature height and branch structure provide foliage primarily on the upper half of the tree. The purpose of a canopy tree is to provide shade to adjacent ground areas.

### **CARPORT**

An open covered motor vehicle parking structure accessory to a main building. It may be free standing or attached to another structure.

### **CLEARING OF LAND**

The removal of vegetation from any site, parcel or lot. Mowing, trimming, pruning or removal of vegetation to maintain it in a healthy, viable condition is not considered clearing.

### **CLINIC**

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

### **CLUB**

An organization of persons for special purposes or for the promulgation of sports, arts, sciences, literature, hobbies, politics, or the like, but not operated for profit.

## **COMMERCIAL**

This term relates to the use of property in connection with the purchase, sale, barter, display, or exchange of goods, wares, merchandise or personal services or the maintenance of service offices or recreation or amusement.

## **COMMON AREA**

That part of a condominium development in which all members have an ownership interest, including but not limited to streets, alleys, walkways and open space.

## **CONDOMINIUM ACT**

Public Act 59 of the Michigan Public Acts of 1978, as amended.

## **CONDOMINIUM PROJECT, SITE**

A division or development of land on the basis of condominium ownership in accordance with the Condominium Act, which is not subject to the provisions of the Land Division Act (P.A. 288 of 1967, as amended).

## **CONDOMINIUM UNIT**

That portion of the condominium project designed and intended for separate ownership and use, as described in the Master Deed of the condominium project.

## **CONSERVATION EASEMENT**

A non-possessory interest in real property imposing limitations or affirmative obligations, the purposes of which include retaining or protecting natural, scenic or open space values of real property; assuring its availability for agricultural, forest, recreational or open space use; protecting natural resources; or maintaining air or water.

## **CONVALESCENT OR NURSING HOME**

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

## **COTTAGE INDUSTRY**

An accessory use to a principal residence where the owner of the residence operates a small scale business as part of their lifestyle as a means of income.

Uses may include, but are not limited to; small scale food processing (without consumption) and artists or craftsmen producing unique items on site.

## **SECTION 17.05 DEFINITIONS – D**

### **DAY CARE**

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

- A. Day Care Home, Family - A single family residence, occupied as such, in which care is provided for more than one (1) but less than (7) minor children or adults for periods of less than twenty-four (24) hours per day, unattended by a parent or legal guardian. Care for persons related by blood, marriage or adoption to a member of the family occupying the dwelling is excluded from this definition.
- B. Day Care Home, Group - A single family residence, occupied as such, in which care is provided for at least seven (7) but not more than twelve (12) minor children or adults for periods of less than twenty-four (24) hours per day, unattended by a parent or legal guardian. Care for persons related by blood, marriage, or adoption to a member of the family occupying the dwelling is excluded from this definition.
- C. Day Care Center, Commercial - A non-residential facility where care is provided for any number of children or adults for periods of less than twenty-four (24) hours per day, for more than two (2) weeks in any calendar year. Child care and supervision provided as an accessory use, while parents are engaged or involved in the main use of the property, such as a nursery operated during church services or public meetings, or by a fitness center or similar operation, shall not be considered a Commercial Day Care.

### **DECK**

An unroofed structure used for outdoor living purposes which may or may not be attached to a building and which protrudes more than four (4) inches above the finished grade.

### **DEED RESTRICTION**

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

## **DENSITY**

As applied in this Ordinance the number of dwelling units situated on or to be developed on a gross acre of land.

## **DISTRICT**

A zoning district pursuant to this Ordinance.

## **DOCK**

A long, narrow structure, extending out into a body of water and attached to the shore, where boats can be moored.

## **DRIVE-IN OR DRIVE-THROUGH FACILITIES**

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

## **DRIVEWAY, PRIVATE**

An improved or unimproved path or street extending from a public right-of-way or private street easement to a single building, dwelling, or structure, intended to provide ingress and egress primarily for occupants thereof.

## **DUAL USE**

A solar energy system that employs one or more of the following land management and conservation practices throughout the project site:

- A. Pollinator Habitat: Solar sites designed to meet a score of 76 or more on the Michigan Pollinator Habitat Planning Scorecard for Solar Sites. Alternatively, the Tier 2 Pollinator Scorecard developed by the Rights-of-Way as Habitat Working Group can be used to evaluate pollinator habitat and management practices.
- B. Conservation Cover: Solar sites designed in consultation with conservation organizations that focus on restoring native plants, grasses, and prairie with the aim of protecting specific species(ex: bird habitat) or providing specific ecosystem services (ex: carbon sequestration, soil health).
- C. Forage for Grazing: Solar sites that incorporate rotational livestock grazing and forage production as part of an overall vegetative maintenance plan.
- D. Agrivoltaics: Solar sites that combine raising crops for food, fiber, or fuel, and generating electricity within the project area to maximize land use.

## **DWELLING, OR DWELLING UNIT**

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

- A. Dwelling, Multiple Family - A building or portion thereof, used or designed for use as a residence for three (3) or more families living independently of each other and each doing their own cooking in the building. This definition includes three (3) family buildings, four (4) family buildings, and apartment houses.
- B. Dwelling, Two-Family - A detached building used or designed for use exclusively by two (2) families living independently of each other and each doing their own cooking in the building. It may also be termed a duplex.
- C. Dwelling, Single Family (Detached) - A detached building used or designed for use exclusively by one (1) family.

## **SECTION 17.06 DEFINITIONS – E**

### **EASEMENT**

A right, distinct from ownership of the land, to cross property with facilities such as, but not limited to, driveways, streets, utility corridors, sewer lines, water lines, and transmission lines, or the right, distinct from the ownership of the land, to reserve and hold an area for open space, recreation, drainage or access purposes.

### **ERECTED**

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

### **ESSENTIAL PUBLIC SERVICES**

The phrase "essential public services" means the erection, construction, alteration, or maintenance by public utilities or municipal departments or commissions of underground, surface, or overhead gas, electrical, steam, or water transmission or distribution systems, collection, communication supply or disposal systems, including mains, drains, sewers, pipes, conduits, wires, cables, fire alarm boxes, traffic signals, hydrants, towers, poles, and other similar equipment, and accessory

structures reasonably necessary for the furnishing of adequate service by public utilities or municipal departments or commissions or for the public health or general welfare, but not including cellular telephone or communications towers or buildings, nor including those buildings that are primarily enclosures or shelters of the above essential service equipment.

### **ESCROW**

An amount of money held by the Township to pay the costs associated with reviewing a zoning application. Escrow fees are for services above what is covered by an application fee.

### **EXCAVATING**

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

## **SECTION 17.07 DEFINITIONS – F**

### **FAMILY**

An individual or group of two (2) or more persons related by blood, marriage, or adoption, together with foster children and servants of the principal occupants, who are domiciled together as a single housekeeping unit in a dwelling unit; or A collective number of individuals domiciled together in one (1) dwelling unit whose relationship is of a continuing, non-transient domestic character and who are cooking and living as a single nonprofit housekeeping unit. This definition shall not include any society, club, fraternity, sorority, association, half-way house, lodge, coterie, organization, group of students, or other individual whose domestic relationship is of a transitory or seasonal nature, is for an anticipated limited duration of a school term or during a period of rehabilitation or treatment, or is otherwise not intended to be of a permanent nature.

### **FARM MARKET**

A commercial establishment selling produce and other farm products, primarily produced in the agricultural operation, at retail to customers, not unlike a grocery store.

### **FARM LABOR HOUSING**

A tract of land and all buildings and other structures pertaining thereto which is established, occupied or used as living quarters for migratory workers engaged in agricultural activities including related food processing as licensed under the provisions of P.A. 289 of 1965, as amended.

### **FENCE**



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

## **FILLING**

The depositing or dumping of any matter onto or into the ground, except common household gardening and landscaping care.

## **FLEA MARKET**

A temporary market, usually held outdoors, where antiques, used household goods, and curios are sold.

## **FLOODPLAIN & RELATED TERMS**

- A. Base Flood - The flood having a one (1) percent chance of being equaled or exceeded in any given year.
- B. Development - Any man-made change to improved or unimproved real estate, including, but not limited to, buildings, or other structures, mining, dredging, filling, grading, paving, excavating or drilling operations.
- C. Flood or Flooding - A general and temporary condition of partial or complete inundation of normally dry land areas from:
  - 1. The overflow of inland waters.
  - 2. The unusual and rapid accumulation or runoff of surface waters from any source.
- D. Flood Hazard Area, Special - The land within a community subject to a one (1) percent or greater chance of flooding in any given year. Also known as "area of 100 year flood," and shown on the Flood Insurance Rate Map (FIRM) as "Zone A."
- E. Flood Insurance Rate Map (FIRM) - An official map of a community, on which the Federal Insurance Administration has delineated both the special flood hazard areas and the risk premium zones applicable to the Township.
- F. Flood Insurance Study - The official report for Denver Township provided by the Federal Insurance Administration containing flood profiles, the water surface elevation of the base flood, and the Flood Hazard Boundary-Floodway Map.
- G. Flood Plain - Land designated as Special Flood Hazard Area.
- H. Floodplain Overlay District - The zone that overlays the existing zoning districts delineated on the official Denver Township Zoning Map. The

boundaries of the Floodplain Overlay District shall coincide with the boundaries of the Special Flood Hazard Area indicated on the Flood Insurance Rate Map.

- I. Floodway, Designated Regulatory - The channel of a river or other watercourse and the adjacent land areas designated in the Flood Insurance Study which shall be reserved in order to discharge the base flood.
- J. Harmful Increase - An unnaturally high stage on a river, stream or lake which causes or may cause damage to property, threat to life, personal injury, or damage to land or water resources.

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

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

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

**FLOOR AREA, USABLE (UFA)** (as associated with commercial or industrial uses)

That area used for or intended to be used for the sale of merchandise or services, or for use to serve patrons, clients, or customers. Floor area which is used or intended to be used principally for the storage or processing of merchandise, for hallways, or for utilities shall be excluded from the computation of usable floor area. See graphics next page.



## FORESTRY OPERATION

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

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

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

## **FRONTAGE**

Depending upon the context in this Ordinance, the portion of a lot abutting, adjoining, or having frontage on a body of water, street, or street. See "Lot Width."

## **SECTION 17.08 DEFINITIONS – G**

### **GAME OR HUNTING PRESERVE**

A fenced area in private ownership containing wild animals which are regularly hunted for a fee. This does not include a bona fide farm which is occasionally hunted by sportsmen and for which a small fee may be paid.

### **GARAGE**

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

### **GREENBELT**

A vegetative strip intended to provide physical separation and visual screening between potentially incompatible uses; be sufficient to screen or filter views of building walls, loading areas, parked vehicles, and outdoor storage areas; moderate harsh or unpleasant sounds; filter air pollutants; and/or slow the effects of storm water runoff.

### **GREEN SPACE**

A yard or landscaped area that may include a lawn, green belt, open space, or natural features.

### **GROUND-MOUNTED SOLAR ENERGY SYSTEM**

A solar energy system mounted on support posts, like a rack or pole, that are attached to or rest on the ground.

## **SECTION 17.09 DEFINITIONS – H**

### **HOME-BASED BUSINESS**

An occupation or profession that is conducted on a residential parcel, in a detached accessory building, and is an incidental and secondary use of such property, but which has a potential to possess characteristics that may be more obtrusive than the Home Occupation standards of this Ordinance. Examples of Home-Based Businesses include, but are not limited to, wood shop, and storage of contractor's equipment.

## **HOME OCCUPATION**

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

## **HOTEL OR MOTEL**

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

## **SECTION 17.10 DEFINITIONS – I**

### **INOPERATIVE VEHICLES**

Any motor vehicle which is unlicensed or not capable of being started and safely and properly operated on the highway.

### **INTENSIVE LIVESTOCK OPERATIONS**

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

## **SECTION 17.11 DEFINITIONS – J**

### **JUNK**

Any motor vehicles, machinery, appliances, products, or merchandise with parts missing; or scrap metals or materials that are damaged or deteriorated; trash; or vehicles or machines in a condition which precludes their use of the purpose for which they were manufactured.

### **JUNK MOTOR (INOPERABLE) VEHICLE**

A junk motor vehicle is any motor vehicle:

- 1. Which is not currently licensed for use upon the highways of this State;

2. Which does not display a current, valid license plate;
3. Which is for any reason disabled or not lawfully operable;
4. Which has remained on the premises of another without the consent of the owner or occupant of the property or after the consent of the owner or occupant of the property has been revoked.

## **JUNK YARD**

Automobile wrecking yards and salvage areas and including any area of more than two thousand (2,000) square feet for the storage, sale, processing, keeping or abandonment of junk, including scrap metals, other scrap materials or reclaimed materials, or for the dismantling, demolition, or abandonment of automobiles or other vehicles or machinery or parts thereof for profit, but does not include lawful uses established entirely within enclosed buildings.

## **SECTION 17.12 DEFINITIONS – K**

### **KENNEL**

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

## **SECTION 17.13 DEFINITIONS – L**

### **LAND DIVISION ACT**

Public Act 288 of the Michigan Public Acts of 1967, as amended.

### **LANDMARK TREE**

A tree with a diameter of over twenty-eight (28) inches four feet off the ground.

### **LAWN**

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

### **LIVESTOCK**

Those species of animals used for human food and fiber or those species of animals used for service to humans. Livestock includes, but is not limited to, cattle, sheep, new world camelids, goats, alpacas, bison, captive cervidae, ratites, swine, equine, poultry, aquaculture, and rabbits. Livestock does not include dogs or cats.

### **LIVING SPACE (with respect to residential uses)**

That part of a dwelling that is normally occupied including bedroom, kitchen, bathroom and gathering areas it excludes storage areas such as closets, attics,

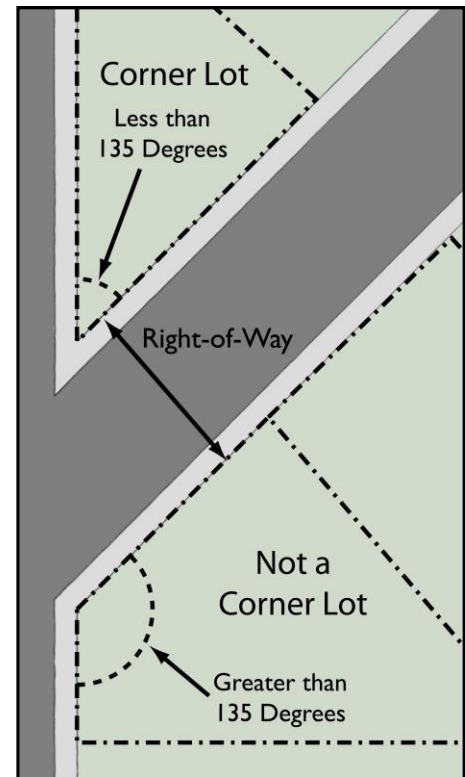
basements and garages. In order for a basement to qualify as living space, it shall be finished for living purposes and each qualifying room shall have a second form of egress under the building code.

### LOADING SPACE

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

### LOT

A parcel of land occupied or intended for occupancy by a use permitted in this Ordinance, including one (1) main building with its accessory buildings, and providing the open spaces, parking spaces, and loading spaces required by this Ordinance. The word "lot" shall include platted lot, plot or parcel. A lot need not be a "lot of record." A lot may also mean a portion of a condominium project, as regulated by Public Act 59 of 1978, as amended, designed and intended for separate or limited ownership and/or use (often called a "unit" or "site condominium unit").



### LOT AREA

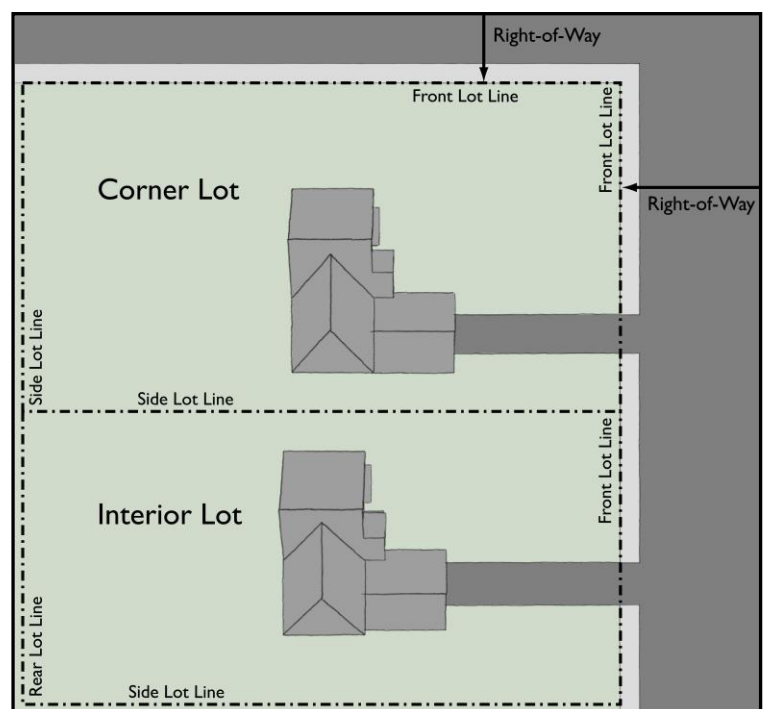
The total horizontal area within the lot lines of a lot excluding a public street right-of-way and any private street easement or right-of-way.

### LOT, CORNER

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

### LOT COVERAGE

The part or percent of the lot occupied by buildings or structures.



## LOT DEPTH

The mean horizontal distance from the front lot line to the rear lot line, or the two (2) front lines of a through lot.

## 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

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

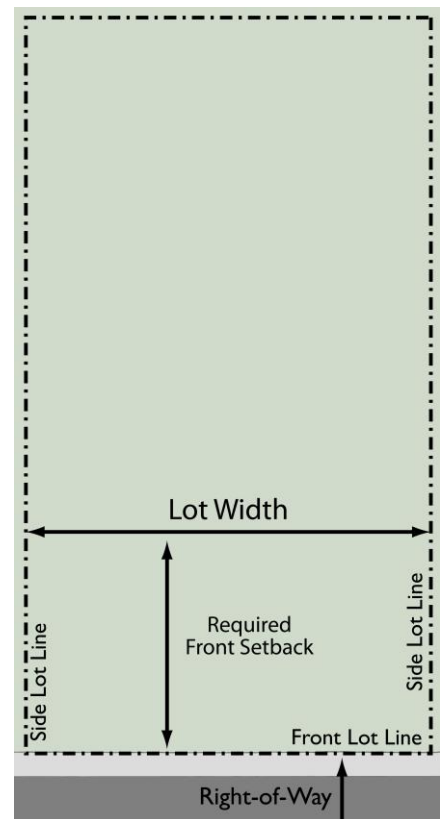
## LOT - KEYHOLE

The use of a waterfront property, parcel or lot as common open space for waterfront access for more than one dwelling without water frontage for waterfront access or the use of waterfront property for waterfront access for a larger development located away from the waterfront.

## LOT LINES

The property lines bounding the lot. See graphic.

- A. Front Lot Line. The line separating the lot from the abutting public or private street right-of-way. A corner or through lot shall have a front lot line abutting each adjacent public or private street right-of-way.
- B. Rear Lot Line. Ordinarily, that lot line which is opposite and most distant from the front lot line of the lot. In the case of an irregular or triangular-shaped lot, a line at least ten (10) feet in length entirely within the lot parallel to and at the maximum distance from the front lot line of the lot shall be considered to be the rear lot line for the purpose of determining the depth of a rear yard. In cases where none of these definitions are applicable, the Zoning Administrator shall designate the rear lot line. (See Double Frontage Lot).
- C. Side Lot Line. Any lot line not a front lot line or a rear lot line. A side lot line separating a lot from another lot or lots is an interior side lot line.





## **LOT OF RECORD**

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

## **LOT, THROUGH**

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

## **LOT, WATERFRONT**

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

## **LOT WIDTH**

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

## **SECTION 17.14 DEFINITIONS – M**

### **MAIN BUILDING**

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

### **MANUFACTURED HOME**

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

### **MANUFACTURED HOME PARK**

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

made therefore, together with any building, structure, enclosure, street, equipment, or facility used or intended for use incident to the occupancy of a manufactured home.

### **MANUFACTURED HOME SPACE**

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

### **MARINA**

A facility located adjacent to a body of water and operated as a commercial enterprise for the sale, storage, or servicing of boats or other watercraft; or a dock or mooring located within a body of water and intended to be used by four (4) or more boats.

### **MASTER PLAN**

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

### **MAXIMUM TILT**

The maximum angle of a solar array (i.e., most vertical position) for capturing solar radiation as compared to the horizon line.

### **MINIMUM TILT**

The minimal angle of a solar array (i.e., most horizontal position) for capturing solar radiation as compared to the horizon line.

### **MUNICIPAL CIVIL INFRACTION**

An act or omission that is prohibited by a provision of the ordinances of Denver Township for which the penalty has been designated as a Municipal Civil Infraction. A municipal civil infraction is not a crime and is punishable by all of the civil remedies provided for in Act 12 of the Public Acts of 1994 as amended.

## **SECTION 17.15 DEFINITIONS – N**

### **NATURAL FEATURE**

Including but not limited to soils, wetlands, woodlots, landmark and specimen trees, floodplains, water bodies, groundwater, topography, vegetative cover, and geologic formations.

## **NATURAL VEGETATIVE COVER**

Significant natural vegetation, including bushes, shrubs, groundcover, and trees, on a lot or parcel. A groomed lawn shall not qualify as natural vegetative cover.

## **NON-CONFORMING BUILDING**

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

## **NON-CONFORMING LOT OF RECORD**

A platted lot that conformed with all Township zoning requirements at the time of recording of the plat, which no longer conforms to the zoning regulations and requirements for lot area or dimension, lot width, or both; or a lot outside a recorded plat that conformed with all Township zoning requirements at one time, and which has not been subdivided or reduced in size subsequent to the time it did conform to the Zoning Ordinance, which no longer conforms with the zoning requirements for lot area or dimension, lot width, or both.

## **NON-CONFORMING USE**

The lawful use of any land or premises exactly as it existed at the time of enactment of the Zoning Ordinance, or amendment thereto, may be continued although the use does not conform to the current provisions of the Zoning Ordinance.

## **NON-PARTICIPATING LOT(S) OR PARCELS**

One or more lots or parcels for which there is not a signed lease or easement for development of a principal-use SES associated with the applicant project.

## **NUISANCE**

An offensive, annoying, unpleasant, or obnoxious thing or practice being a cause or source of annoyance.

## **SECTION 17.16 DEFINITIONS – O**

### **OPEN SPACE**

Undeveloped land not part of any required yard which is set aside in a natural state, for recreational purposes.

### **OPEN SPACE, USABLE**

That portion of the common open space which due to its slope, drainage characteristics and soil conditions can be used for active recreation.

### **OPEN AIR BUSINESS**

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

- A. Utility truck or trailer, motor vehicle, boats, or home equipment sale, repair, rental, or storage services.
- B. Outdoor display and sale of garages, motor homes, manufactured homes, snowmobiles, swimming pools, and similar activities but not including farm implements or commercial construction equipment.
- C. Retail sale of trees, fruits, vegetables, shrubbery, plants, seeds, topsoil, humus, fertilizer, trellises, lawn furniture, playground equipment, and other home garden supplies and equipment, but not including lumberyards.

### **ORDINARY HIGH WATER MARK**

The line between upland and bottomland which persists through successive changes in water levels, below which the presence and action of the water is so common or recurrent that the character of the land is marked distinctly from the upland and is apparent in the soil itself, the configuration of the surface of the soil and the vegetation. Where the water levels vary for purposes of water level management, the ordinary high water mark shall be the higher of the levels generally present.

### **OUTDOOR FURNACE**

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

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

### **OUTDOOR RECREATIONAL FACILITY**

Tennis courts, archery courts, shuffleboard, horseshoe courts, rifle or gun ranges, gun club, miniature golf, golf driving ranges, amusement park or similar recreation uses (transient or permanent).

### **OUTDOOR STORAGE**

The keeping, in an unroofed area, of any goods, junk, material, merchandise or vehicles in the same place for more than twenty four hours.

### **OVERLAY ZONE**

An additional set of regulations which apply in conjunction with those in the underlying zoning district.

## **SECTION 17.17 DEFINITIONS – P**

### **PARKING LOT**

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

### **PARKING SPACE**

An off-street space of at least ten by eighteen feet in area (10x18) exclusive, of necessary driveways, aisles, or maneuvering areas, suitable to accommodate one (1) motor vehicle and having direct unobstructed access to a street or alley.

### **PARTICIPATING LOT(S) OR PARCELS**

One or more lots or parcels under a signed lease or easement for development of a principal-use SES associated with the applicant project.

### **PERSONAL SERVICE ESTABLISHMENTS**

Any commercial business conducting services that are performed primarily on the premises including but not limited to cosmetology salons, barber shops and tanning facilities.

### **PERFORMANCE GUARANTEE**

A financial guarantee to ensure that all improvements, facilities, or work required by this Ordinance will be completed in compliance with the ordinance, regulations and the approved plans and specifications of a development.

### **PHOTOVOLTAIC (PV)**

A semiconductor material that generates electricity from sunlight.

## **PLANNED UNIT DEVELOPMENT (PUD)**

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

## **PLANNING COMMISSION**

The Denver Township Planning Commission.

## **PORCH, ENCLOSED**

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

## **PORCH, OPEN**

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

## **PRINCIPAL USE**

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

## **PRINCIPAL-USE SOLAR ENERGY SYSTEM**

A commercial, ground-mounted solar energy system that converts sunlight into electricity for the primary purpose of off-site use through the electrical grid or export to the wholesale market.

## **PRINCIPAL-USE (LARGE) SOLAR ENERGY SYSTEM**

A Principal-Use SES generating greater than 2 MW DC for the primary purpose of off-site use through the electrical grid or export to the wholesale market.

## **PRINCIPAL-USE (SMALL) SOLAR ENERGY SYSTEM**

A Principal-Use SES generating up to and including 2 MW DC for the primary purpose of off-site use through the electrical grid or export to the wholesale market.

## **SECTION 17.18 DEFINITIONS – Q**

(RESERVED)

## **SECTION 17.19 DEFINITIONS – R**

### **RECREATION VEHICLE OR EQUIPMENT**

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

### **RELIGIOUS INSTITUTION**

A building where persons regularly assemble for religious worship that is maintained and controlled by a religious body organized to sustain public worship.

### **REPOWERING**

Reconfiguring, renovating, or replacing an SES to maintain or increase the power rating of the SES within the existing project footprint.

### **RESTAURANT**

A building in which food is prepared and sold for consumption within the building, as opposed to a drive-through restaurant where food may be taken outside of the building for consumption either on or off the premises.

### **ROADSIDE STAND**

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

### **ROAD COMMISSION**

The Newaygo County Road Commission.

### **ROOF-MOUNTED SOLAR ENERGY SYSTEM**

A solar energy system mounted on racking that is attached to or ballasted on the roof of a building or structure.

### **RUBBISH**

Any solid waste, except human excreta, but including garbage, refuse, ashes, street cleanings, dead animals, offal and solid agricultural, commercial, industrial, hazardous and institutional wastes and construction waste resulting from the operation of a contractor.

## **SECTION 17.20 DEFINITIONS – S**

### **SALVAGE YARD**

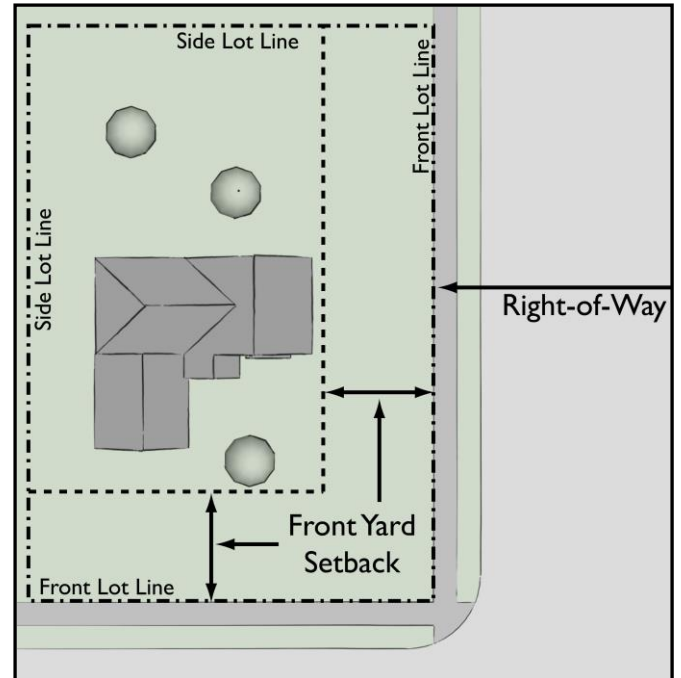
See JUNK YARD

### **SAWMILL**

A facility where logs or partially processed cants are sawn, split, shaved, stripped, chipped, or otherwise processed to produce wood products, not including the processing of timber.

### **SCREEN**

A structure providing enclosure, such as a fence, and a visual barrier between the area enclosed and the adjacent property. A screen may also be a non-structure, consisting of shrubs or other growing materials.



### **SETBACK**

The minimum required horizontal distance from a structure or a building measured from the front, side, or rear lot line, as the case may be, which describes an area termed the required setback area or yard on a lot or parcel.

- A. Front Setback - The line marking the setback distance from the front right-of-way line which establishes the minimum front yard setback area.
- B. Rear Setback - The line marking the setback distance from the rear lot line which establishes the minimum rear yard setback area.
- C. Side Setback - The lines marking the setback distance from the side lot lines which establish the minimum side yard setback area.

### **SHORELINE**

See Ordinary High Water Mark.

### **SIGNIFICANT NATURAL FEATURE**

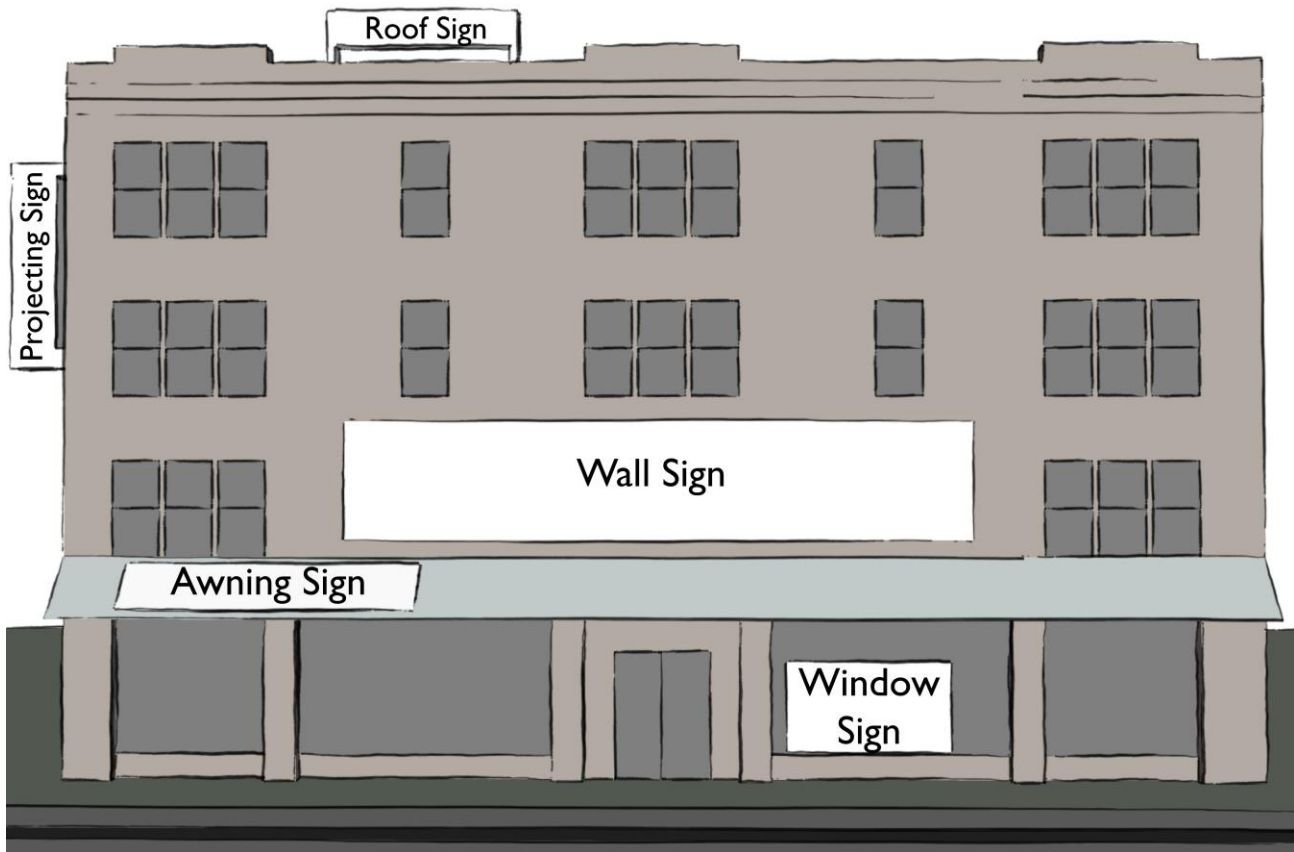
Any natural area as designated by the Planning Commission, Township Board, or the Michigan Department of Environmental Quality, or other appropriate governmental agency, which exhibits unique topographic, ecological, hydrological, or historical characteristics such as a wetland, floodplain, water features,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



**SIGNS** (definitions relating to): See also graphic following.

- A. Abandoned: A Sign shall be deemed Abandoned if:
  - 1. It does not display a well-maintained message for a consecutive 120-day period;
  - 2. The Owner of the Sign cannot be located at the Owner's last known address, as reflected on the records of the Township; or
  - 3. A structure designed to support a Sign no longer supports the Sign for a period of 120 consecutive days.
- B. Directional Sign: A Sign on private property with or without commercial message to give directions such as entrance, exit, or street numbers.
- C. Billboard: A Sign that is more than 100 square feet in size.
- D. Ground Sign: A Sign supported by one or more uprights, braces, pylons, or foundation elements located in or upon the ground and not attached to a building.
- E. Parcel: Contiguous real estate taxed as a single parcel on one side of a public road.
- F. Projecting Sign: A Sign affixed to any part of a building or structure which extends beyond the building or structure by more than twelve inches.
- G. Residential Neighborhood Identification Sign: A Sign at the entrance of a residential neighborhood identifying the neighborhood.
- H. Roof Sign: A Sign erected, constructed, or maintained upon, or which projects above, the roof line of a building.
- I. Sign: An object, including a structure, movable object, wall, or image displaying any message visible to the public.
- J. Special Event Sign: A Sign for events such as grand openings, vehicle shows, displays, craft shows, benefits, fund-raisers, festivals, and other limited term events.
- K. Wall Sign: A Sign attached to, painted upon, placed against, or supported by the exterior surface of any building.

- L. Window sign: A sign installed inside a window and intended to be viewed from the outside.



## **SITE PLAN**

The documents and drawings required by the zoning ordinance to insure that a proposed land use or activity is in compliance with local ordinances and state and federal statutes.

## **SOLAR ARRAY**

A photovoltaic panel, solar thermal collector, or collection of panels or collectors in a solar energy system that collects solar radiation.

## **SOLAR CARPORT**

A solar energy system of any size that is installed on a structure that is accessory to a parking area, and which may include electric vehicle supply equipment or energy storage facilities. Solar panels affixed on the roof of an existing carport structure are considered a Roof-Mounted SES.

## **SOLAR ENERGY SYSTEM (SES)**

A photovoltaic system or solar thermal system for generating and/or storing electricity or heat, including all above and below ground equipment or components required for the system to operate properly and to be secured to a roof surface or the ground. This includes any necessary operations and maintenance building(s) but does not include any temporary construction offices, substation(s) or other transmission facilities between the SES and the point of interconnection to the electric grid.

### **SOLAR THERMAL SYSTEM**

A system of equipment that converts sunlight into heat.

### **SPECIAL LAND USE**

A use that, due to some characteristics of its operation, such as traffic, noise, odor, glare, or hours of operation, may be permitted in a district subject to special requirements different from those generally applicable to permitted uses within the zoning district in which the special use is located.

### **STABLES, PRIVATE**

A building or structure, located on a lot of five (5) acres or more on which a dwelling is located; designed, arranged, used, or intended to be used for housing saddle horses or ponies primarily for the use of occupants of the dwelling and not for hire.

### **STABLES, RIDING**

A building or structure which is designed, arranged, used, or intended to be used for housing saddle horses or ponies primarily for hire.

### **STACKING SPACE**

An area designated for a line of vehicles waiting for drive-through service.

### **STATE LICENSED RESIDENTIAL FACILITY**

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

A State Licensed Residential *Family* Facility includes a state licensed residential facility providing resident services to six (6) or fewer persons.

A State Licensed Residential *Group* Facility includes a state licensed residential facility providing resident services to more than six (6) persons.

- A. Adult Foster Care Facility - A facility defined by the Adult Foster Care Facility licensing act (PA 218 of 1979), as amended, having as its principal function the receiving of adults for foster care. Such facility includes facilities and foster care family homes for adults who are aged, mentally ill, developmentally disabled, or physically handicapped who require supervision on an ongoing basis, but who do not require continuous nursing care.
- B. Adult Foster Care Large Group Home - An adult foster care facility with the approved capacity to receive at least thirteen (13) but not more than twenty (20) adults to be provided with foster care.
- C. Adult Foster Care Small Group Home - An adult foster care facility with the approved capacity to receive twelve (12) or fewer adults to be provided with foster care.
- D. Adult Foster Care Family Home - A private residence in which the licensee is a member of the household and an occupant, providing foster care for five (5) or more days a week and for two (2) or more consecutive weeks with the approved capacity to receive six (6) or fewer adults.
- E. Foster Family Group Home - A private residence in which more than four (4) but fewer than seven (7) minor children, who are not related to an adult member of the household by blood, marriage, or adoption, are provided care for twenty-four (24) hours a day, for four (4) or more days a week, for two (2) or more consecutive weeks, unattended by a parent or legal guardian.
- F. Foster Family Home - A private residence in which one (1) but not more than four (4) minor children, who are not related to an adult member of the household by blood, marriage, or adoption, are provided care for twenty-four (24) hours a day, for four (4) or more days a week, for two (2) or more consecutive weeks, unattended by a parent or legal guardian.

## **STOP WORK ORDER**

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

## **STORY**

That portion of a building, other than a basement or mezzanine, included between the surface of any floor and the floor next above it, or if there is no floor above it, then the space between the floor and the ceiling next above it. For the purpose of this Ordinance, a basement or cellar shall be counted as a story only if over fifty

percent (50%) of its height is above the level from which the height of the building is measured, or if it is used for business purposes.

### **STORY, HALF**

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

### **STREET**

- A. Private Street - A private street shall mean any undedicated path, trail, or street which is not a dedicated public right-of-way, and which provides or has the potential for providing access to two (2) or more existing parcels and/or two (2) or more principal buildings, dwelling units, or other structures whether created by a private right-of-way, agreement, license, joint ownership, easement or prescription. Any and all extensions, additions, or branches of or to a private street shall be considered part of the primary private street which abuts the public street.
- B. Public Street - A public thoroughfare located within a public street right-of-way which affords traffic circulation and principal means of access to abutting property, including avenue, place, way, drive, lane, boulevard, drive, court, highway, street, street, and other thoroughfare; except an alley.

### **STRUCTURE**

Anything constructed, installed, or erected, the use of which requires location on the ground or attachment to something on the ground.

### **SUBSTANTIAL IMPROVEMENT**

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

## **SECTION 17.21 DEFINITIONS – T**

### **TEMPORARY BUILDING OR USE**

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

### **TEMPORARY EVENT**

A use, activity, or event which is normally not allowed within a District, but may be permitted under certain circumstances pursuant to a temporary event permit issued under this Ordinance.

### **TOWNSHIP**

Denver Township, Newaygo County, Michigan.

### **TOWNSHIP ATTORNEY**

The person or firm appointed by the Township as the attorney for Denver Township.

### **TOWNSHIP BOARD**

The Denver Township elected officials.

### **TOWNSHIP BUILDING INSPECTOR**

The person or agency appointed by the Board as the Building Inspector for Denver Township.

### **TOWNSHIP ENGINEER**

The person or firm appointed by the Township Board as the Engineer for Denver Township.

### **TOWNSHIP PLANNER**

The person or firm appointed by the Township as the Planner for Denver Township.

## **SECTION 17.22 DEFINITIONS – U**

(RESERVED)

## **SECTION 17.23 DEFINITIONS – V**

### **VARIANCE**

A variation or modification of this Ordinance granted by the Zoning Board of Appeals relating to the construction, structural changes in, or alteration of buildings or structures or the use of land, buildings, or structures, where there is a practical difficulty for dimensional variances or an unnecessary hardship for use variances, in the way of carrying out the strict letter of this Ordinance.

### **VEHICLE REPAIR**

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

### **VEHICLE SERVICE STATION**

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

### **VEHICLE WASH ESTABLISHMENT**

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

### **VETERINARY CLINIC**

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

## **SECTION 17.24 DEFINITIONS – W**

### **WEED**

Native or non-native plant that is not valued in the place where it is growing,

### **WETLAND**

Land characterized by the presence of water at a frequency and duration sufficient to support and that under normal circumstances does support wetland vegetation

or aquatic life. Wetlands are regulated by Part 303, Wetlands Protection, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended.

### **WILDLIFE-FRIENDLY FENCING**

A fencing system with openings that allow wildlife to traverse over or through a fenced area.

### **WIRELESS TELECOMMUNICATION SERVICES**

Licensed telecommunication services including cellular, personal communication services (PCS), specialized mobilized radio (SMR), enhanced specialized mobilized radio (ESMR), paging, and similar services that are marketed to the general public.

### **WIND ENERGY CONVERSION SYSTEM (WECS)**

A surface area, either variable or fixed, for utilizing the wind for electrical powers; and a shaft, gearing, belt, or coupling utilized to convert the rotation of the surface area into a form suitable for driving a generator, alternator, or other electricity-producing device; and the generator, alternator, or other device to convert the mechanical energy of the surface area into electrical energy; and the tower, pylon, or other structure upon which any, all, or some combination of the above are mounted or any building or accessory equipment.

### **WESC TOWER HEIGHT**

The distance between the ground and the highest point of the WECS.

## **SECTION 17.25 DEFINITIONS – Y**

### **YARD**

A yard is an open space on the same land with a structure, building, or group of buildings, which open space lies between the structure, foundation of the building, or group of buildings and the nearest lot line and is unoccupied and unobstructed from the ground upward, except as otherwise provided herein.

- A. Front yard - An open space extending the full width of the lot, the uniform depth of which is measured at right angles to the front lot line. For lots with frontage on a body of water, the front yard is at the water.
- B. Rear yard - An open area extending across the full width of the lot, the uniform depth of which is measured at right angles to the rear lot line.
- C. Side yard - An open unoccupied area between a main building and the side lot lines, extending from the front yard area to the rear yard area. The width



of the side yard shall be measured horizontally from and at right angles to the nearest point of the side lot line.

## **SECTION 17.26 DEFINITIONS – Z**

### **ZONING ACT**

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

### **ZONING ADMINISTRATOR**

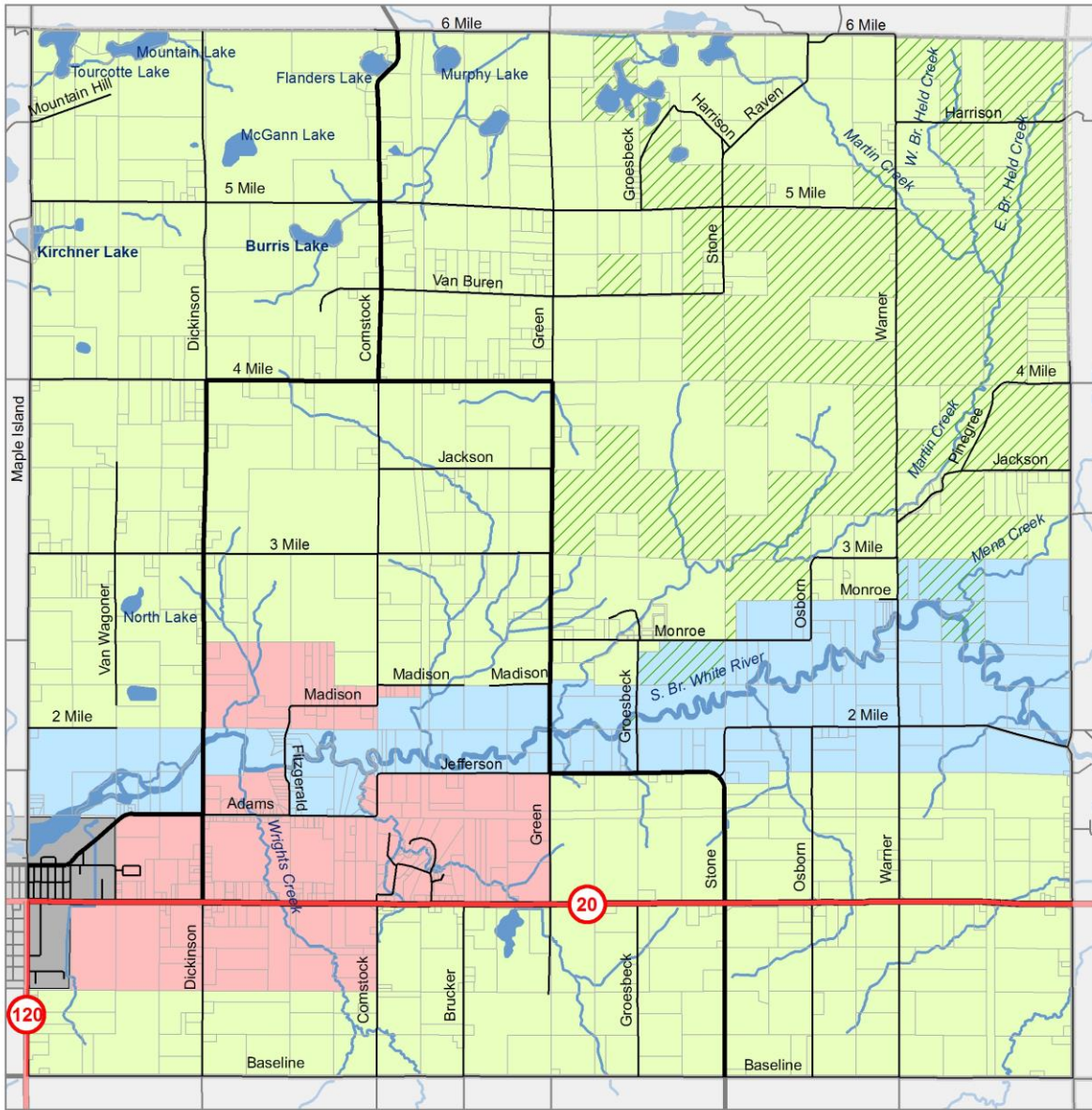
The person designated by the Township to administer the provisions of this Zoning Ordinance.

### **ZONING BOARD OF APPEALS**

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

### **ZONING COMPLIANCE PERMIT**

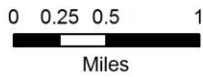
Also referred to as a “zoning permit.” Such a permit shall be obtained before a use is commenced or a building or structure is constructed or expanded as provided in this Ordinance.



### Denver Township - Newaygo County, MI Zoning Map

-  Village of Hesperia
-  US Forest Service Lands
-  RR Rural Residential
-  R-1 Residential
-  WR White River Floodplain Overlay

January 2012



Sources:  
Newaygo County GIS  
State of Michigan Geographic Data Library