

## **ARTICLE XV**

### **SPECIAL USES**

#### **SECTION 15.01 PURPOSE**

The formulation and enactment of this Zoning Ordinance is based upon the division of the Township into zoning districts, each of which include permitted uses which are mutually compatible. In addition to such permitted uses in districts, however, it is recognized that there are certain specific or unique uses which may be necessary or desirable to allow in definable locations in certain districts; but, which on account of their actual or potential impact on neighboring uses or public facilities, need to be carefully regulated with respect to their location for the protection of the permitted uses in a district. Such uses, on account of their peculiar locational need or the nature of the service offered, may have to be established in a district in which they cannot be reasonably allowed as an unrestricted permitted use.

#### **SECTION 15.02 AUTHORITY TO GRANT PERMITS**

The Township Board shall have the authority to grant Special Use Permits, subject to such conditions of design and operations, safeguards and time limitations as it may determine for all special uses conditionally allowed in the various district provisions of this Ordinance.

#### **SECTION 15.03 APPLICATION AND FEES**

Application for any special use permit allowed under the provisions of this Ordinance shall be made to the Township Clerk by filling in the official special use permit application form, submitting required data, exhibits and information; and depositing the necessary fee in accordance with the Township schedule of fees. No fee shall be required of any governmental body or agency. No part of such fee shall be returnable to an applicant.

#### **SECTION 15.04 DATA, EXHIBITS AND INFORMATION REQUIRED IN APPLICATIONS**

An application for a special use permit shall contain (a) the applicant's name and address in full, (b) a notarized statement that the applicant is the owner involved or is acting on the owner's behalf, (c) the address of the property involved, (d) an accurate survey and site plan of said property showing the existing and proposed location of all buildings and structures thereon, and types thereof, and their uses and (e) a statement and supporting data, exhibits, information and evidence regarding the required findings set forth in this Ordinance.

## **SECTION 15.05 PUBLIC HEARING**

The Township Planning Commission shall hold a public hearing, or hearings, upon any application for a Special Use Permit, notice of which shall have its publications and notices to all owners and residents located within 300 feet of the property in accordance with MCL 125.286b (16b) of the P.A. 184 of 1943, the "Township Rural Zoning Act." *[now PA 110 of 2006, Michigan Zoning Enabling Act]*

## **SECTION 15.06 REQUIRED STANDARDS AND FINDINGS FOR MAKING DETERMINATIONS**

The Planning Commission shall review the particular circumstances and facts of each proposed special use in terms of the following standards and required findings, and shall find and record adequate data, information and evidence showing that such a special use on the proposed site, lot, or parcel:

- A. Will be harmonious with and in accordance with the general objectives, intent and purposes of this Ordinance.
- B. Will be designed, constructed, operated, maintained and managed so as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity.
- C. Will be served adequately by essential public facilities and services; such as, highways, roads, police and fire protection, drainage structures, refuse disposal, or that the persons or agencies responsible for the establishment of the proposed special use shall be able to provide adequately any such service.
- D. Will not be hazardous or disturbing to existing or future neighboring uses.
- E. Will not create excessive additional requirements at public cost for public facilities, utilities and services.
- F. Planning Commission Modification: Any requirement of this Section may be waived or modified by a 2/3 vote of the Planning Commission, through Site Plan approval, provided the Planning Commission identifies characteristics of the site or site vicinity that would make the specific requirement(s) unnecessary or ineffective, or, where it would impair general public safety immediately adjacent to the specific site. An such determination by the Planning Commission granting a waiver or modification shall be confirmed or modified by a recorded roll call vote of the Township Board when giving final approval.  
*[sub-section F. added 2008]*

## **SECTION 15.07 SITE PLAN REVIEW**

If a site plan is disapproved, the applicant is required to wait one (1) year before re submittal of the same or similar site plan for review and approval consideration by the Planning Commission on the same or approximately the same parcel of land. The applicant has the right to request the review of a disapproved site plan on matters of interpretation of the provisions of this Zoning Ordinance, but not of land, building or structural use.

Zoning Board of Appeals – No Authority: The Zoning Board of Appeals shall have no authority to review or grant variances from any of the following conditions or any decision of either the Planning Commission or Township Board in relation to the granting or denial of any Special Use permit. *[paragraph added 2008]*

## **SECTION 15.08 JUNK YARDS AND INOPERATIVE VEHICLES**

In addition to and as an integral part of development, the following provisions shall apply:

- A. Junk yards shall be established and maintained in accordance with all applicable statutes of the State of Michigan and shall be located only in the I - Industrial Districts, and shall be located only on sites which are completely screened from adjacent properties and public view. Inoperative vehicles or parts of vehicles shall be considered as a junk yard, if unlicensed and if located in the open and not completely contained within an enclosed structure or area.
- B. Impoundment Yards shall be located in HC or I districts on sites which are completely screened from adjacent properties and public view in accordance with Section 18.30 of this ordinance. *[amended 1999]*

## **SECTION 15.09 MOBILE HOME PARKS <sup>1</sup>**

All Mobile Home Parks shall comply with requirements of Public Act 96 of 1987, as amended, and the following regulations. Refer to Ordinance 30, "Mobile Home Ordinance," for mobile homes located outside of Mobile Home Parks.

- A. MOBILE HOME PARKS shall only be located in or adjacent to districts zoned Multi-Family Residential (MFR). Minimum size for a mobile home park shall be fifteen (15) acres.
- B. OPEN SPACE - An open area shall be provided on each mobile home lot to ensure privacy, adequate natural light, ventilation, and a sufficient area for outdoor uses essential to each mobile home, and shall equal at least forty (40) percent of the area of each lot.

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<sup>1</sup> This Section 15.09 is subject to review by the State Mobile Home Park Commission in accordance with P.A. 419 of 1976.

- C. PARK LOCATION AND ACCESS - Mobile home parks shall have frontage and direct access from designated state highways or hard surfaced county primary roads.
- D. MOBILE HOME LOT ACCESS - Convenient access to each mobile home lot apron shall be provided by means of a minimum twelve (12) foot wide access road or drive reserved for maneuvering mobile homes into positions and kept free of trees and other immovable obstructions.
- E. CANOPIES AND SKIRTING
  - 1. Each mobile home shall be skirted within ninety (90) days after establishment in a Mobile Home Park.
  - 2. Mobile home skirting shall be vented. Louvered or similar vents shall have a minimum of 600 square inches of open space per thousand square feet of living space. A minimum of one vent shall be placed at the front and rear of the mobile home and two vents shall be provided at each exposed side. An access panel of sufficient size to allow full access to utility hookups located beneath the mobile home shall be installed. All skirting shall be manufactured of fire-resistant material and certified as such by the manufacturer.
  - 3. Skirting shall be installed in a manner so as to resist damage under normal weather conditions, including damage caused by freezing and frost, wind, snow, and rain.
  - 4. Canopies and awnings may be attached to a mobile home. No canopy or awning shall exceed ten (10) feet in width nor the length or height of the mobile home.
- F. SCREENING AND FENCING
  - 1. The developer of a mobile home park may completely or partially screen the park by installing fencing or natural growth along the entire property line, including the line abutting a public thoroughfare, except at access points.
  - 2. Individual mobile home site fencing, if permitted by the park, shall be not more than three (3) feet high and shall have not less than two (2) access gates which provide free access to all sides of the mobile home in the event of an emergency. The fencing shall be approved by the park before installation and upon completion.
- G. LANDSCAPING- All mobile home park boundary lines shall be maintained in a clean and presentable condition at all times. A grass lawn or other suitable groundcover shall be maintained as yard surfacing on each mobile home lot,

except for those portions of the lot covered by the mobile home, structural additions, sheds, walks, concrete pads, or planting beds.

- H. **STORAGE AREAS** - No personal property shall be stored outside or under any mobile home. Storage sheds may be used to store property but need not be supplied by the owner of the mobile home development.
- I. **TELEVISION ANTENNA** - One (1) or more master antenna facilities may be installed with underground service connections to each mobile home lot.
- J. **ILLUMINATION OF VEHICULAR AND SIDEWALK SYSTEMS** - Vehicular and sidewalk systems within a mobile home park shall be illuminated as follows:
  - 1. Access points to public thoroughfares shall be lighted. If the public thoroughfare is lighted, the illuminated level shall not be more than the average illumination level of an adjacent illuminated thoroughfare.
  - 2. At all street intersections and designated pedestrian crosswalks, the minimum illumination level shall be not less than .15 foot candles.
  - 3. Roads, parking bays, and sidewalks shall be illuminated at not less than .05 foot candles.
  - 4. If a central park mail box area or park directories, or both, are provided, they shall be illuminated at not less than 3.15 foot candles on any box or any entry on the directory.
  - 5. Outdoor recreational facilities shall be adequately lighted when in use.
- K. **CENTRAL BUILDINGS** - Central buildings for administrative or laundry facility usage are permitted. Buildings may also be provided for central recreation, assembly halls, and for storm shelters. Such buildings shall be conveniently located on the park site, may be combined structurally with the administrative and laundry facilities, and may include swimming pools or other clubhouse facilities in connection with on-site recreation facilities.
- L. **PERMIT REQUIREMENTS FOR MOBILE HOME PARK CONSTRUCTION OR ALTERATION** - It shall be unlawful for any person or corporation to construct, alter or extend any mobile home park unless they first obtain valid permits from the State Department of Consumer and Industry Services.
- M. **LICENSE REQUIREMENTS FOR OPERATION OF A MOBILE HOME PARK** - It shall be unlawful for any person or corporation to operate a mobile home park in the Township without a valid license issued by the State Department of Consumer and Industry Services.
- N. **INSPECTIONS** - The State has sole authority for periodic inspections of mobile home parks. A law enforcement officer representing the Township may inspect a mobile home park if he has reason to believe that a person has violated or is about

to violate applicable state laws, construction codes, or rules promulgated pursuant to state laws governing mobile home parks. [original text – 1990]

- O. **ACCESSORY USES PERMITTED WITH CONDITIONS.** An area for a campground limited to use for recreational vehicles, in a Licensed Mobile Home Park having at least 15 acres. Such recreational vehicle campground use shall not occupy more than 10% of the Mobile Home Park area and shall meet the following requirements:
1. An area for a campground may not reduce the area devoted exclusively to the Mobile Home Park to less than 13 acres.
  2. The campground shall be established in accordance with Public Act 368 of 1978, Part 125, Sections 12501-12516, as amended, and the Administrative Rules promulgated under P.A. 368 of 1978 as administered by the County, District or State Public Health Department.
  3. Where the campground abuts the external boundary of the Mobile Home Park, there shall be a 20-foot wide landscaped and screened buffer strip. Such buffer strip shall contain either a wall or evergreen screen at least 6 feet high and sufficient to screen the view from neighboring properties.
  4. The period of stay for each recreational vehicle shall not exceed twelve months.
  5. Vehicular access shall be regulated by Section 18.26 of the Zoning Ordinance and may be shared with the Mobile Home Park.
- [amended March 2005]

#### **SECTION 15.10 VALID NONCONFORMING**

The use of any mobile home, travel trailer, motor home or recreation vehicle placed on a lot, parcel or tract of land in the Township prior to the effective date of this Ordinance, which use is not prohibited by this Ordinance, shall be a "Valid Nonconforming Use" that may be continued, subject to the provisions pertaining to "Nonconforming Uses" contained in Article XVII.

#### **SECTION 15.11 TEMPORARY TRANSIENT AMUSEMENT ENTERPRISES**

The following provisions shall apply in addition to all applicable regulations in the district in which they are to be located:

- A. All "Temporary Transient Amusement" uses shall be located on sites large enough so as not to occupy or cover more than fifty (50) percent of the area of a lot or parcel upon which it is located.
- B. All fenced-in areas shall be set back at least 100 feet from any front road or property line.
- C. Side and rear yards shall be at least 100 feet in depth from all adjacent lots or parcels.

- D. All traffic ingress or egress shall be on public roads and all local traffic movements shall be accommodated within the site so that entering and exiting vehicles will make normal and uncomplicated movements onto or off from public roads. All points of entrance or exit for motor vehicles shall be located no closer than 200 feet from the intersection of any two (2) roads or highways.
- E. Temporary Transient Amusement uses are not permitted in any MDR, LDR, or HDR residential districts. *[amended 1996]*

## **SECTION 15.12 GASOLINE SERVICE STATIONS**

All gasoline service stations or filling stations shall conform to the following regulations in addition to all applicable regulations in effect in the district in which they are to be located.

- A. **FRONTAGE AND AREA:** Every gasoline service station shall have a minimum frontage of 200 feet and a minimum area of 30,000 square feet.
- B. **SETBACKS:** Every structure, including gasoline pumps and other equipment, erected or installed for use as a gasoline service station shall have a minimum setback from the road right-of-way as required by the regulations in the zone in which they are to be located, and a minimum setback from all property lines of fifty (50) feet.
- C. **CONSTRUCTION STANDARDS:** All vehicle service areas shall be constructed to conform to the following standards:
  - 1. Suitable separation shall be made between the pedestrian sidewalk and vehicular parking or moving area with the use of appropriate bumper, wheel guards or traffic islands.
  - 2. The entire area used for vehicles service shall be paved with a hard surface, except for such unpaved area as is landscaped and protected from vehicle use by a low barrier.
  - 3. Hydraulic hoist, lubricating, greasing, washing, and repair equipment shall be entirely within a building. Tire and battery service and minor automobile repair, excluding automobile body repair and painting, are permitted if conducted entirely within a building.
  - 4. The maximum widths of all driveways at the public sidewalk crossing or road shall be no more than twenty-four (24) feet.
  - 5. Minimum angle or driveway intersection with the roadway from the curb line to lot line shall be no less than sixty (60) degrees.
  - 6. The minimum distance of any driveway from any property line shall be at least twenty (20) feet.
  - 7. The minimum distance between roadway curb cuts shall be no less than forty (40) feet.

- D. **LIGHTING:** All lighting shall be installed in a manner so that no illumination source is visible beyond all property lines.
- E. **GASOLINE SERVICE STATIONS** are only permitted in NSC, CSC, HSC and HC Districts.

**SECTION 15.13 SANITARY LANDFILLS**

Sanitary landfills shall: (1) only be located in the RD and AR Districts, (2) only if planned to be located in Van Buren County, including South Haven Township, in accordance with the County Plan prepared in conformance with Public Act 641 of 1978, "The Solid Waste Management Act," or under the jurisdiction of the Michigan Department of Natural Resources in conformance with Public Act 64 of 1979, "The Hazardous Waste Act," and (3) with direct access only permitted from an impervious hard surface paved all-weather year-round road as defined by the County Road Commission.

**SECTION 15.14 EXTRACTION OF NATURAL RESOURCES**

**A. PERMITTED USES**

The following special uses will be permitted only in the RD and AR Districts and when applicable, in conformance with P.A. 303 of 1982, "Michigan Surface and Underground Mine Reclamation Act":

- 1. The excavation or mining of sand and gravel. The incidental excavation of sand and gravel for on-site use only are excluded from the regulations of this Ordinance except for the setback and yard requirements specified in the RD and AR Districts.
- 2. The processing, storage, loading, and transportation of sand and gravel.
- 3. The mining of clay.
- 4. The extraction of peat or marl.
- 5. The quarrying of stone.
- 6. The mining of coal.
- 7. The operation of transit-mix concrete plant.
- 8. The operation of a concrete products plant.

**B. PERMITTED ACCESSORY USES**

- 1. Any use customarily incidental to the permitted Principal Special Use.

**C. EXTRACTIVE MINING AREA, BULK AND EQUIPMENT LOCATION REQUIREMENTS**

- 1. **LIMITS OF EXCAVATION:** Sufficient setback shall be provided from all



property lines and public highways, to assure adequate, lateral support. Minimum allowable setback shall be fifty (50) feet from any property line and seventy-five (75) feet from any public highway or road.

2. **PLACEMENT OF PROCESSING PLANTS:** Processing plants and its accessory structures shall not be closer than 250 feet from any property line or public highway or road.
3. **ELEVATION OF PLANT SITE:** Wherever practicable, processing plants shall be located within the excavation area, at a point lower than the general level of the surrounding terrain, in order to reduce the visual impact of plant structures.
4. **MANAGEMENT OF STORAGE PILES AND OVERBURDEN:** Storage piles of processed material and overburden stripped from mining areas shall not be located closer than fifty (50) feet from any property line, or one hundred (100) feet from any public highway or road.
5. Minimum site area for natural resource extraction sites under this Ordinance shall be twenty (20) acres.

**D. GENERAL REQUIREMENTS**

Natural resource extraction operations shall be carried out under the conditions of a Mining Permit, issued and maintained under the following requirements:

1. Before commencement of mining operations, the operating company shall file an operational plan with the Township Planning Commission, which plan and any necessary subsequent revisions shall be approved by the Commission, setting forth the area or areas to be mined, the location of permanent structures, the points of access upon public highways, and the highway routes to be followed in the transportation of finished materials. This plan, and any approved necessary subsequent revisions, shall be filed with the Zoning Administrator by the Planning Commission.
2. The operational plan, which shall be submitted to and approved by the Planning Commission, shall include a determination of the net operational areas, i.e., the area stripped of overburden, the area being mined, the area used for structures and storage piles, and worked out areas which have not been reclaimed. Performance bonds, hereinafter considered in relation to the reclamation of the area, shall be calculated on the basis of the net excavation and operational area as measured in acres.
3. Upon commencement of mining operations, perimeter controls shall be established for the mining area:
  - a. The mining area shall be enclosed within a five (5) foot high continuous wall or fence or by a screen planting or hedge fence of similar capability.
  - b. The property shall be posted against trespass, with conventional signs placed not more than 100 feet apart.
4. Sight barriers shall be provided along all boundaries adjacent to roads which lack natural vegetative or terrain conditions which provide effective

screening of mining operations. Sight barriers shall consist of one (1) or more of the following:

- a. Earth berms, which shall be constructed to a height of at least five (5) feet above the mean elevation of the center line of the public highway adjacent to the mining property, or at least five (5) feet above the general level of terrain along property lines. These berms shall have slopes not in excess of one (1) foot vertical to four (4) feet horizontal, and shall be planted with grass, trees and shrubs.
  - b. Screen plantings which shall be of coniferous or other suitable species at least five (5) feet in height, in rows parallel to the boundary of the property, with the spacing of rows and the spacing of trees within rows which shall be sufficient to provide effective screening.
  - c. Walls or solid fences which shall be constructed to a height of at least five (5) feet.
5. Noise and vibration shall be minimized in their effect on adjacent properties by the proper use of berms, walls, and screen plantings. In addition, all equipment used for the production of sand and gravel shall be constructed, maintained, and operated in such a manner as to eliminate, as far as is practicable, noises and vibrations which are injurious or substantially annoying to persons living in the vicinity.
  6. Air pollution in the form of dust and dirt shall be kept at a minimum. All equipment used for production of sand and gravel shall be operated in such a manner as to minimize, insofar as is practicable, dust conditions which are injurious or substantially annoying to persons living in the vicinity. Interior roads serving the mining operation shall be paved, treated, or watered, insofar as is practicable, to minimize dust conditions.
  7. No mining of sand or gravel shall take place within the specified distance from the margin of any stream or waterway as established by the Michigan Water Resources Commission, Department of Environmental Quality (DEQ).

#### E. RECLAMATION OF MINED AREAS

1. All natural resource extraction areas shall be reclaimed and rehabilitated as soon as may be practicable after each mining phase has been completed in accordance with the plan approved by the Planning Commission. Wherever the operational plan shall permit, reclamation shall be accomplished concurrently with phased mining operations, i.e., a mined-out phase section of the area may be undergoing rehabilitation while a second phase may be undergoing active mining, and a third phase area may be being stripped of overburden. Substantial completion of reclamation shall be effected for one phase of the three (3) permitted to be opened at any one time for extraction purposes prior to proceeding with the next approved phase. After all extraction operations are completed, the final phases of extraction shall be reclaimed in accordance with the

- approved final reclamation plan within one (1) year after all extraction has been completed.
2. Before commencement of mining operations, the operating company shall submit a generalized reclamation plan to the Planning Commission, setting forth the intended disposition of all land and water areas, the proposed configuration of the terrain as shown on a topographic map, a plat of any proposed streets or other improvements to be made upon the property, and a general statement of the intended final utilization of the mined property. This plan, and any subsequent revisions, shall be approved by the Planning Commission before any zoning permit is issued by the Zoning Administrator.
  3. Rehabilitation and Reclamation of natural resource extraction areas shall be in accordance with the following standards:
    - a. All excavation shall have either a water depth of not less than ten (10) feet below the average summer level of water in the excavation, or shall be graded or backfilled with non-noxious, non-inflammable and noncombustible solids in accordance with the approved Reclamation Plan in order to insure:
      - 1) that the excavated area shall not collect and retain stagnant water, or
      - 2) that the surface of such area which is not permanently submerged is graded or back-filled as necessary to produce gently rolling surface that will minimize wind and water erosion, and which will be generally compatible with the adjoining land area.
    - b. The finished grade of all slopes resulting from excavations shall not be steeper than one (1) foot vertical to three (3) feet horizontal.
    - c. Topsoil of a quality equal to that occurring naturally in the surrounding area shall be replaced on all excavated areas not covered by water, except those areas where roads, beaches, or other planned improvements are planned. Top soil shall be applied to a depth of at least four (4) inches.
    - d. Vegetation shall be restored by the appropriate planting of grass, trees and shrubs, in order to establish a permanent vegetative cover on the land surface, and to minimize erosion.
    - e. Upon cessation of mining operations by abandonment or otherwise, the operating company, within a reasonable period of time, not to exceed twelve (12) months thereafter, shall remove all plant structures, buildings, stockpiles, and equipment.
  4. The operating company shall post a minimum financial guarantee in the amount of \$5,000 for the first five (5) net operational acres. The financial guarantee shall be increased at the rate of \$1,000 per each additional operational acre which exceeds the first five (5) net operational acres. The guarantee shall be provided in one of the following forms: (1) cash, (2) certified check, (3) irrevocable bank letter of credit, or (4) surety bond acceptable to the Township Board. Upon rehabilitation of mined acreage,

and reduction of net operational area, the bond or security shall be released in accordance with the amount of security required per acre.

F. ADMINISTRATION OF MINING OPERATIONS

1. The following procedures shall be followed before establishing a mining operation:

- a. The operating company shall file an operational plan, in accordance with the requirements of Section 15.14.D of this Ordinance. This plan may be in the form of a written statement and maps, and shall carry evidence of review and approval, if required, by any County or State agency of competent jurisdiction, in addition to the required approval of the Township Planning Commission. On the basis of this plan, the operating company shall file a statement of net area to be excavated as measured in acres.
- b. The operating company shall file a reclamation and rehabilitation plan, subject to the requirements of Section 15.14.E.2 and shall provide a performance guarantee in accordance with the requirements of Section 15.14.E.4 of this Ordinance.
- c. The Township Planning Commission shall review the Operations and Reclamation plans and make its recommendation to the Township Board.
- d. The Township Board shall review the recommendation and accept or reject the plan. Upon acceptance of the plan, the Township Board will receive the performance guarantee of reclamation in accordance with Section 5.14.E.4 of this Ordinance.

2. Before commencement of mining operations, a Mining Permit shall be issued by the Zoning Administrator upon payment of an annual fee in accordance with the established Township "Fee Schedule." This fee shall defray any administrative expense rising out of the mining operation.

3. INSPECTION AND CONFORMANCE

- a. Inspections shall be made of the mining site, not less often than twice in each calendar year by the Zoning Administrator in order to insure conformance with the requirements of the approved Special Use Permits.
- b. Any violations shall be reported in writing to the Township Board. The report shall be forwarded with a request for compliance, to the operating company by the Zoning Administrator.
- c. Failure on the part of the operating company to correct a reported violation within thirty (30) days after such request is made by the Zoning Administrator shall be reason for revocation of the permit. Additional time for correction of the cited violation may be allowed upon submission to the Zoning Administrator of proof of good and sufficient cause

## **G. SPECIAL REQUIREMENTS**

### **1. WAIVER OF EXCAVATION LIMITS**

The Township Zoning Board of Appeals may approve a reduction of the setback limits required for excavations in Section 15.14.E.1 under the following conditions:

- a. The operating company shall have provided the Zoning Board of Appeals with acceptable proofs that lateral support shall not be endangered.
- b. Adjacent property owner or owners shall have given written consent to the waiver of limits for excavation.
- c. All other requirements of this Ordinance have been met and maintained at the time of applying for and receiving approval of any waiver.

## **SECTION 15.15 BED AND BREAKFAST INNS**

- A. A Bed and Breakfast Inn shall meet the requirements of the zoning district in which it is located.
- B. An existing residential structure proposed as a Bed and Breakfast Inn shall require a building inspection by the Building Inspector prior to any approval or use as a Bed and Breakfast Inn. Any code violation(s) shall be corrected prior to approval or use as a Bed and Breakfast Inn.
- C. One off-street parking space shall be provided for each room to be rented in addition to the numbers of spaces required for the residence. All parking spaces shall be paved.
- D. The Bed and Breakfast Inn shall be licensed as such by the State of Michigan.

## **SECTION 15.16 MAN-MADE PONDS**

Man-made (not naturally occurring) ponds may be located in all Zoning Districts provided they meet the following requirements (ponds located on farms are exempt from these requirements):

- A. Application shall include proof of ownership of property, plot of survey of the property upon which the pond is to be located, and a site plan drawn to scale showing the location of the pond and buildings and structures located on the property.
- B. Before any excavation is started, property owners shall secure proper township permits and pay the required fees.

- C. Existing (at the time of adoption of this provision) ponds and their uses may continue.
- D. Any changes in the configuration or use of existing ponds shall only be made in conformance with the provisions of this Zoning Ordinance.
- E. All ponds, whether they are seasonally permanent or permanent year-round ponds, which are less than twenty-four inches deep at their deepest point, shall be excluded from these regulations.
- F. Ponds may require inspection prior to construction and upon completion.
- G. All excavation and reclamation shall be completed in accordance with an approved site plan and within the period of time specified in this Ordinance or as specified on the permit.
- H. A pond may be located so as to be shared by more than a single lot or parcel by extending across common property lines, provided that the perimeter of such a pond meets all required yard or other setback requirements from all other property lines and all spacing requirements between and among structures located on the lots sharing a pond.
- I. No pond shall be located in any required yard or other setback or spacing requirements between structures when located on a single lot or parcel of land.
- J. Required setback for ponds will be fifty (50) feet from any property line, easement, structure, well, septic tank, or drain field, and one hundred (100) feet from any public highway or road or private road or access easement.
- K. Ponds shall meet the requirements of the County Soil Conservation District.

**SECTION 15.17 SANITARY SEPTIC WASTE HAULING AND SERVICING FACILITIES.**

- A. All sanitary waste hauling and servicing facilities shall be established and maintained in conformance with all applicable State of Michigan and Van Buren County statutes.
- B. No use of this type shall be permitted within 250 feet of any residential use district.
- C. The site shall abut and have direct access to a county primary or state highway.
- D. All equipment, operations, loading and unloading areas and areas of outdoor storage shall be enclosed by a fence six (6) feet or more in height around the

periphery of the operation. Such fence shall be adequate to conceal the facilities from adjacent properties.

- E. All operations shall be maintained in an orderly condition so as to prevent adverse impacts upon adjacent properties or the community in general.
- F. All such operations shall be connected to the South Haven Area Sewer and Water Authority services.
- G. Odor Control:
  - 1. There shall be no emission of odorous matter in such quantities as to be offensive at the lot boundary lines.
  - 2. Any process that involves the creation or emission of any odors shall be provided with a secondary safeguard system, so that control will be maintained if the primary safeguard system should fail.
  - 3. There is hereby established as a guide in determining such quantities of offensive odors, Table III (Odor Thresholds) in Chapter 5 "Air Pollution Abatement Manual" copyright 1951, by Manufacturing Chemists' Association, Inc., Washington, D.C.
- H. Outdoor Storage and Waste Disposal
  - 1. No flammable or explosive liquids, solids, or gases shall be stored in bulk above ground.
  - 3. No materials or wastes shall be deposited upon a lot in a form or manner that may be transferred off the lot by natural forces or causes.

**SECTION 15.18 CAMPGROUNDS, SEASONAL MOBILE HOME PARKS  
AND RECREATIONAL VEHICLE (RV) PARKS:**

*[section added August 2008 and amended April 2009]*

- A. Campgrounds, seasonal mobile home parks and RV parks shall be allowed subject to the following procedures and conditions:
  - 1. The total area of the campground shall be at least 10 acres.
  - 2. There shall be a required setback of not less than 50 feet along all property lines. No campsite or any structure shall be located in this required setback area. Setback requirements on the side or rear property line may be waived or modified when said line is constituted by the edge of a river, lake or pond and the Planning Commission shall find that no useful purpose would be served by the stipulated setback.
  - 3. There shall be a greenbelt planting strip with a width of not less than 20 feet along the property lines and may be within the 50-foot setback as required in 2 above. Such greenbelt will contain at least one straight or staggered row of deciduous and/or evergreen trees, spaced not more than

- 40 feet apart, and at least three rows of deciduous and/or evergreen shrubs, spaced not more than eight (8) feet apart, that grow to an ultimate height of 12 feet.
4. If there are recreational areas they may be located within the 50-foot required setback but not within the 20-foot greenbelt.
  5. Vehicular circulation system shall consist of improved drives or roads with a right-of-way of at least 33 feet and shall have unrestricted access to or from a public street.
  6. Each campground site shall abut on a roadway, and shall have at least 30 feet of roadway frontage.
  7. Campsites for cabins and recreational units shall have a minimum area of 4,000 square feet. Campsites limited to tents (modern or primitive) shall have a minimum area of 1,500 square feet and at least 15 feet of roadway frontage.
  8. No camping cabin, Park model recreational unit or other camping unit shall exceed 400 square feet in set-up mode as certified by the manufacturer in compliance with American National Standard Institute standard A119.5.
  9. The maximum gross floor area for all attached rooms, decks (open or closed) or other structural areas attached to the camping unit shall not exceed 400 square feet.
  10. There shall be a minimum of 5 feet clear around each recreational unit or camping cabin, and there shall be two parking spaces directly abutting the campground drive for cabin or recreational unit sites. Each parking space shall measure 10 feet by 20 feet.
  11. No detached shed or other structure shall exceed 150 square feet in gross floor area or 12 feet in height. A zoning permit shall be required for all such structures, which shall be constructed based on standard design and shall not be constructed of scrap or non-standard materials. Detached sheds shall be setback at least 4 feet from the boundary of the camping site and 10 feet from the recreational unit or camping cabin.
  12. No structure shall exceed 25 feet in height, except for one (1) club house, community hall or similar structure allowed per 100 camp sites, not to exceed 2,500 square feet in area.
  13. One (1) detached single-family dwelling, not to exceed 3,500 square feet in gross floor area, used only for purposes of residence by a park manager or owner and conforming to requirements of the zoning district may be allowed. Such dwelling is not subject to sub-section 12 above.
  14. Any grading plan for the grounds of the campground shall be reviewed and approved by the County Drain Commissioner.
  15. Each site will be arranged to safely accommodate a travel trailer, camper, or other similar camping apparatus. There shall be not less than one (1) parking space for each rental unit or campsite. Parking spaces shall measure 10' x 20' and there shall be a driveway width of 12 feet for each direction of travel.



16. There shall be a maximum of two sign that shall bear only the name of the campground, shall have a maximum area of 100 square feet each. Such signs may be lighted provided the source of light is not visible and not the flashing or intermittent type, and may be located with the required setback but not within the greenbelt.
  17. One (1) commercial enterprise per fifty (50) campsites may be permitted to operate within the park, such structure(s) shall be for convenience goods, related to camping, such building(s) shall not exceed two thousand five hundred (2,500) square feet of floor area.
  18. There shall be no sales or display of camping vehicles.
  19. Except for primitive campgrounds, there shall be located, within the campground, approved sanitary dumping facilities.
  20. All requirements, as regulated by Michigan Public Act 368 or 1978, as amended, shall be complied with.
  21. The Planning Commission may require a traffic impact study/report to determine that a proposed project shall not reduce or project to reduce the traffic engineering level of service classification of an impacted roadway.
  22. A proposed use shall not negatively impact adjoining properties and the surrounding neighborhood. The Planning Commission may require an impact analysis to make this determination.
- B. The above restrictions shall apply to all lots, parcels or tracts on or abutting any lake, whether the access to the lake waters is by easement, park, common-fee ownership, single-fee ownership, condominium arrangement, license or lease.
- C. Creation of condominium ownership shall not have the effect of creating a change of use. Removal of campsites from the campground by the Michigan Department of Natural Resources, Public Health, Environmental Quality, or any other department or division for whatever reason if such action results in the creation of a violation shall be considered a nuisance per se and result in the immediate vacation of the camp site in violation including the removal of all structures and/or other occupancy on the campsite in violation.

**SECTION 15.19 CHURCHES, PRIVATE SCHOOLS, LIBRARIES,  
MUSEUMS AND COMMUNITY HALLS:**

- A. Minimum lot width shall be one hundred and fifty (150) feet.
- B. Minimum lot area shall be three (3) acres, for structures with an intended capacity less than one-hundred (100) persons. For structures with an intended capacity over one-hundred (100) persons there must be sufficient area to allow for the required parking on-site. Existing churches, schools, etc. on non-conforming lots may be expanded only if the off-street parking requirements are met for the entire capacity.

- C. This type of structure may be exempted from the height limitations of the zoning district. For every foot of height by which the building, exclusive of spire, bell or clock towers, exceeds the maximum height limitation for the district, an additional (to the minimum) foot of front, side or rear yard setback shall be required.
- D. The lot location shall be such that at least one (1) property line abuts a paved road. All ingress to the lot shall be directly onto a paved road.
- E. Lighting for parking areas or outdoor activity areas shall be shielded to prevent light from spilling onto any residential district or use.
- F. For uses exceeding a seating capacity of two-hundred fifty (250) persons, a traffic study shall be required to be submitted by the applicant which describes internal circulation and projects impacts on traffic operations, capacity, and access on adjacent and nearby roads which are likely to provide access to the site.
- G. Access driveways shall be located no less than fifty (50) feet from the nearest part of the intersection of any road or any other driveway.

**SECTION 15.20 FRATERNAL ORGANIZATIONS:**

- A. Minimum lot area shall be one (1) acre.
- B. Maximum structure floor area shall not exceed 6,000 square feet per acre.
- C. Shall be located on lots of at least two (2) acres.
- D. Shall not be located within 1,000 feet of a church or school.
- E. Retail sales of food or beverages may be permitted to members or guests only and there shall be no external sign of commercial activity.

**SECTION 15.21 HOSPITALS, CLINICS, SANITARIUMS, CONVALESCENT HOMES, STATE LICENSED RESIDENTIAL CARE FACILITIES FOR MORE THAN 6 PERSONS, AND SIMILAR STRUCTURES DESIGNED FOR HUMAN CARE:**

- A. Minimum lot area shall be one (1) acre.
- B. Maximum structure floor area shall not exceed 6,000 square feet per acre.
- C. The lot location shall be such that at least one (1) property line abuts a paved road. The ingress and egress for off-street parking facilities for guests and patients shall be directly from paved road.

- D. Minimum main and accessory building setback shall be 50 feet from a street right-of-way line, and 30 feet from a side or rear property line.

**SECTION 15.22 PARKS, PLAYGROUNDS AND RECREATION AREAS:**

The Planning Commission shall consider the following standards:

- A. All activities shall be setback a minimum of fifty (50) feet from any lot line in a residential district, except as required below.
- B. The Planning Commission may require a fence, wall or planted material to screen the use from adjacent residential districts.
- C. The proximity of the intended use to adjoining properties specifically includes 100-foot setbacks to occupied dwellings.
- D. A lighting plan shall include locations and shield designs.

**SECTION 15.23 RACE TRACKS (INCLUDING MIDGET AUTO, KARTING, HORSE, AND SNOW MOBILE).**

Subject to the following conditions:

- A. Because race tracks develop concentrations of vehicular traffic in terms of ingress and egress from parking areas and cause noise levels that may project beyond the property so used, they shall be permitted only when located adjacent to a paved road and shall be located on a parcel of land of at least 40 acres, with a minimum land width of 660 feet and shall be subject further to the following conditions and such other controls as are deemed necessary by the Planning Commission to promote health, safety and general welfare.
- B. All parking shall be dust free and be provided as off-street parking within the boundaries of the development.
- C. All access to the parking areas shall be provided only to a dust free paved road.
- D. All sides of the development not abutting a paved road shall be provided with a 20-foot greenbelt planting so as to obscure from view all activities within the development. The greenbelt planting shall consist of either:
  - 1. At least three (3) parallel rows of evergreen trees plus one (1) outer row of evergreen shrubs, or,
  - 2. At least two (2) rows of deciduous trees plus two (2) rows of shrubs and one (1) row of under-story trees such as dogwood, sassafras or fruit trees.

- E. Exterior lighting shall be installed so that it does not impede the vision of traffic along adjacent roads.
- F. Central loudspeakers/paging systems are prohibited within 100 feet of residentially zoned property.
- G. The intensity level of sounds shall not exceed seventy (70) decibels (dBA) at the lot line of industrial uses; sixty five (65) decibels at the lot line of commercial uses, and fifty-five (55) decibels at the lot line of residential uses. The sound levels shall be measured with a type of audio output meter approved by the United States Bureau of Standards

**SECTION 15.24 DUPLEXES.**

- A. Shall only be located on parcels served by municipal sanitary sewer and municipal water supply systems.
- B. Any lot containing a duplex shall have only one (1) driveway access to a public street, except within a site condominium or plat.
- C. Shall only be located on parcels having a minimum lot width of 90 feet and a maximum lot width of 160 feet from the road right-of-way for its entire depth.
- D. Shall only be located on parcels having a minimum lot area of 15,000 square feet in the HDR District, and 20,000 square feet in the MDR District; and is served by municipal sanitary sewer and water supply.

**SECTION 15.25 ACCESSORY IMPOUND YARDS**

A small impound yard may be included as an accessory use to an automobile repair facility in a Community Service Commercial (CSC) district or a Highway Service Commercial (HSC) district under the following conditions:

- A. Impounded vehicles shall not be held on the property for more than three (3) months except when held under court order as evidence for trial.
- B. The normal capacity of any impound yard shall be for no more than 20 vehicles, however, up to 35 vehicles may be permitted for short periods, not to exceed 30 days.
- C. An impound yard shall not exceed 13,500 square feet in area.
- D. An impound yard shall be fenced with a solid fence or wall, at least six (6) feet in height but not more than eight (8) feet in height. If the impound area would be visible off-site the Planning Commission may require a higher fence . The fence shall be sufficient to screen the view of impounded vehicles from both the street

and from adjacent properties. Solid fence may include a painted board fence without gaps between the slats, or, a chain-link fence with screening slats. Sheet metal fences or walls are prohibited, as are; scrap-wood or scrap metal fences or walls. No area of the fence shall be used as a sign.

- E. An impound yard shall be setback at least ten (10) feet behind the rear wall of the principle structure, which shall be a repair shop.
- F. An impound yard shall not be located closer than 250 feet to any residential zoned district.
- G. Auctions shall be limited to police or law enforcement impounded vehicles only.
- H. Stacking of vehicles, junking, scrapping, parts salvage or 'cannibalizing' of vehicles are prohibited activities.
- I. Lighting shall be shielded from adjacent uses.
- J. Depending upon the surrounding uses, the Planning Commission may require an evergreen screen with plantings no more than eight (8) feet apart.
- K. Incompatible Use: No impound yard shall be established adjacent to or within 500 feet of any restaurant, retail goods store, retail food market, medical clinic, hotel, motel or similar use.
- L. This special use is subject to revocation by the Zoning Board of Appeals after a show-cause hearing. A show-cause hearing shall be called subsequent to two (2) notices of violation of any of the conditions listed above, within any twelve-month period by the Zoning Administrator or designee. Such notice of violation shall include the date that the violation was observed and the specific violation.

**SECTION 15.26 WIND ENERGY CONVERSION SYSTEMS (WECS) OR WIND ENERGY SYSTEMS**

- A. Exempt On-Site Use Wind Energy Systems (less than 100 feet in height): An On-Site Use wind energy system is intended to serve an individual property only. On-Site Use Wind Energy Systems (including Anemometer Towers) with no towers or with tower height(s) less than 100 feet shall be a permitted use in all zoning classifications subject to the requirements of Article XVIII Supplemental Regulations, Section 18.47 On-Site Use Wind Energy Systems less than 100 feet in height.
- B. Special Use On-Site Use Wind Energy Systems (100 feet in height or more): On-Site Use Wind Energy Systems (including Anemometer Towers) with tower height(s) of 100 feet or more shall be considered a Special Use allowed in all

zoning districts where structures are allowed subject to the requirements of this Article.

- C. Site Plan: The site plan shall show:
1. The location of overhead electrical transmission or distribution lines, whether utilized or not;
  2. The location of the Wind Energy Conversion System (WECS) with its specific dimensions including the entire area through which the rotors may pass;
  3. The location of any guy wires or other support devices;
  4. The location of all occupied dwellings within three hundred (300) feet of the WECS.
- D. Manufacturer Information. Each site plan submission shall be accompanied by a complete set of the manufacturer's instructions which shall at a minimum include:
1. A standard foundation and anchor design;
  2. A detailed parts list;
  3. Clearly written instructions for assembly, installation, checkout, operation, and maintenance of the WECS on site;
  4. A list of warning documents to be provided as required herein;
  5. Grounding and lighting procedures which follow the National Electrical Code, Article 250 – Grounding, and Article 280 – Lightning Arresters;
  6. Underwriters label where appropriate
  7. Proof of insurance.
- E. Site Requirements:
1. **Property Setbacks**: The distance between an On-Site Use Wind Energy System and the owner's property lines (and road right-of-way lines) shall be at least 1.1 times the height of the wind energy system structure including the blade in its vertical position. No portion of the structure, including guy wire anchors, shall extend closer than ten feet to the property line.
  2. **Utility Setbacks** – No WECS shall be erected so that any portion of the tower or turbine is closer to utility lines than the total height of the tower and rotor combined.
  3. **Construction Codes, Towers, and Interconnection Standards**: On-Site Use Wind Energy Systems including towers shall comply with all applicable state construction and electrical codes and building permit requirements. On-Site Use Wind Energy Systems including towers shall comply with Federal Aviation Administration requirements, the Michigan Airport Zoning Act (Public Act 23 of 1950, MCL 259.431 et seq.), the Michigan Tall Structures Act (Public Act 259 of 1959, MCL 259.481 et seq.), and local jurisdiction airport overlay zone regulations. An interconnected On-Site Use wind energy system shall comply with Michigan Public Service

Commission and Federal Energy Regulatory Commission standards. Off-grid systems are exempt from this last requirement.

3. Safety: An On-Site Use wind energy system shall have automatic braking, governing, or a feathering system to prevent uncontrolled rotation or over speeding. All wind towers shall have lightening protection. If a tower is supported by guy wire anchors, the wires shall be clearly visible at a height of at least six feet above the guy wire anchors. The minimum vertical blade tip clearance from grade shall be 20 feet for a wind energy system employing a horizontal axis rotor.
4. Electromagnetic Interference – The entire WECS including turbines, alternators, generators, and interconnected systems shall be filtered and/or shielded to prevent the emission of generated radio frequency energy which could cause interference with radio and television broadcasting and/or reception. The entire WECS shall also comply with Federal Communication Commission Rules and in particular with 47 CFR, Part 15, Subparts A and F and Part 18, Subparts A, D, and H.
5. Height, WECS – The maximum allowable height for any specific site shall be further regulated by Article XIVA – AOA – Airport Overlay Zone and the requirements of the Federal Aviation Administration, the Michigan Aeronautics Division, Michigan Department of Transportation and the Michigan Aeronautics Commission. The applicant shall demonstrate compliance with the Michigan Tall Structures Act (P.A. 259 of 1959, as amended) and FAA guidelines as part of the approval process.
6. Ground Clearance – For both horizontal and vertical axis turbines, the WECS rotor shall be located on the tower or support such that the minimum blade clearance above ground shall be twenty (20) feet.
7. Accessibility – Towers shall be designed and constructed in such a manner that climbing devices are only accessible with a separate ladder at a minimum height of twelve (12) feet.
8. Height, Anemometer Tower – Towers used to conduct wind assessment studies for possible installation of a WECS, including attached equipment, shall be setback at least 1.1 times the height of the tower from any lot line or right-of-way line.
9. Temporary Towers - Use of temporary towers (those without permanent foundations) are limited to a two (2) year period.

F. Interconnected WECS:

In the case of a WECS proposed to be interconnected with the power grid of the local electric utility, the applicant shall provide proof of written notice to the utility of the proposed interconnection and the utility's response thereto. The applicant shall comply with all requirements of the servicing utility if the WECS is to be interfaced with the utility grid. The utility shall install appropriate electric metering and the applicant shall be required to install a disconnecting device adjacent to the electric meter(s).

G. Decommissioning:

The applicant shall submit a plan describing the intended disposition of the WECS at the end of its useful life, and shall describe any agreement with the landowner regarding equipment removal upon termination of the lease. A performance security or equivalent financial instrument shall be posted in an amount determined by the Township Board (to be utilized in the event the decommissioning plan must be enforced with respect to tower removal, site restoration, etc.). The security deposit shall be in favor of South Haven Charter Township and shall be in an amount of at least \$1 million and shall contain a replenishment obligation.

**SECTION 15.27      TRANSITIONAL PAROLE HOUSING, HALFWAY HOUSE,  
SUBSTANCE ABUSE TREATMENT & REHABILITATION  
SERVICE OR SIMILAR SOCIAL INSTITUTION**

A Special Use Permit may be issued for Transitional Parole Housing, Halfway House, Substance Abuse Treatment & Rehabilitation Service or Similar Social Institution provided the site meets all of the following conditions:

- A. Applicant shall provide evidence of a demonstrated need in the community for such a facility.
- B. The facility shall not be located closer than 1,500 feet to any of the following:
  - 1. Any Child Care facility licensed under Public Act 116 of 1973, as amended.
  - 2. Any Foster Care facility licensed under Public Act 218 of 1979, as amended.
  - 3. Any school or public playground, youth sports field or similar facility.
  - 4. Any church, temple, synagogue, mosque or similar religious facility, except where the religious facility is the owner and manager of the transitional housing facility and where the religious facility property is not occupied by any of the other uses listed in this sub-section F.2.
- C. The facility shall have a chain link or similar fence at least four feet high surrounding the property. Solid fencing is prohibited except upon the written request of the adjacent property owner received by the Township prior to site plan approval, in which case a solid fence shall be required.
- D. The minimum lot area shall be three (3) acres and the minimum lot width shall be 300 feet.
- E. All structures shall be setback 50 feet from any property line or road right-of-way line.
- F. This use is prohibited on property adjacent to any legal pre-existing non-conforming property that does not meet the minimum lot area and width requirements of the AR zoning district.
- G. The facility shall provide a minimum useable floor area of 300 square feet per person.
- H. The property shall be maintained consistent with the visible characteristics



required for the neighborhood.

- I. The owner shall submit a visitation plan providing for required daily visitation and contact by public safety officers, social service professionals, or religious ministers.
- J. The property shall be located where public transit service is available

#### **SECTION 15.28 SOLAR FARMS AND SOLAR ENERGY SYSTEMS FOR COMMERCIAL USE**

Commercial Solar Energy Systems or Solar Energy Systems that exceed the maximum size listed in Article XVIII, Section 18.29 shall only be allowed in the AR, LDR, MDR, CSC and HC zoning districts as a special use approved by the Planning Commission. In addition to any other requirements for special use approval, Solar Energy Systems under this section shall be ground mounted and are subject to the following requirement:

- A. The application shall provide verification that adequate infrastructure exists to transport the electricity generated into the larger grid system.
- B. The application shall provide verification that there exists an adequate water supply for the site.
- C. The installation of the panels and associated structures shall not disturb the existing topography and soil.
- D. The mounting height of the panels as well as the total height of the panels (in an elevated or tilted position) shall be provided. The Planning Commission may regulate the overall height of the panels based on surrounding land uses.
- E. The plans submitted shall include a site restoration plan showing the use of the site should the panels be removed, as well as described method and mechanisms to implement the site restoration plan.
- F. A copy of the site plan and specification for solar panels, solar shingles and arrays of panels shall be transmitted to the South Haven Area Emergency Services (SHAES).
- G. The panel array shall be fitted with an automatic shut off or breaker switch as approved by the Fire Department to isolate the panels in case of fire.
- H. The Fire Department shall keep on file the type of system that the solar panel array is a part of, either photovoltaic or thermal.
- I. All panels shall have tempered, non-reflective surfaces.
- J. It shall be shown that all panels are adequately secured to the surface upon which they are mounted and that the mounting structure has the capability of supporting the panels.
- K. The installation of the panels shall not require or be reliant on the clear cutting of trees or other vegetation.
- L. The installation of any solar panel shall not negatively impact adjacent properties with additional or excessive storm water runoff and/or drainage.
- M. Solar Energy Systems under this section shall be located on parcels of land no less than five (5) acres in size.
- N. Solar Energy Systems under this section shall meet the minimum front, side and rear yard setbacks of the zoning district.

- O. Landscaping shall be provided to screen the system from view on all sides to the greatest extent possible.
- P. If the owner of the facility or the property owner fails to remove or repair the defective or abandoned Commercial Solar Energy System, the Township, in addition to any other remedy under this Ordinance, may pursue legal action to abate the violation by seeking to remove the Solar Energy System and recover any and all costs, including attorney fees.

## **SECTION 15.29 MICRO-HOUSING DEVELOPMENTS**

This type of infill development is intended to provide for affordable housing of less than standard size as an exception to the minimum floor area requirements, but in compliance with Section 18.39. For this use the following conditions are required:

- A. Minimum development land area is 5 acres and the maximum development land area is 10 acres.
- B. Municipal Sanitary Sewer and Municipal Water supply are mandatory.
- C. The maximum floor area of the dwelling shall not exceed 680 square feet in gross floor area (GFA). Post construction additions shall be prohibited.
- D. The minimum GFA of the dwelling shall conform to Section 18.39.[12'x24'=288 s.f.]
- E. Each dwelling unit shall contain: bathroom, kitchen, living room and a sleeping area. The sleeping area may consist of a loft.
- F. Each individual lot shall have two parking spaces for vehicles (10' wide by 20' deep) directly accessible to the internal street of the development.
- G. Each individual lot shall have a minimum width of 22 feet and a minimum depth of 88 feet. Minimum lot size shall be 2,900 square feet and the maximum lot size shall be 4,250 square feet. Lots shall not exceed a 4 to 1 length to width ratio.
- H. Front setback shall be 20 feet, side setbacks shall be 5 feet on each side, rear setback shall be 10 feet and there shall be 10 feet between the dwelling and an accessory building.
- I. One accessory building may be provided and as an exception to Section 18.06 C. the floor area allowed for the accessory building shall be up to 576 square feet no matter what size of the dwelling. Maximum accessory building height shall be 15 feet. Habitable space above the ground floor of an accessory building is prohibited.
- J. Maximum lot coverage shall be 30% or 1,256 square feet, whichever is less.
- K. There shall be an access road with a minimum road easement width of 40 feet, provided that there shall also be 10-foot wide public utility easements on at least one side of the road right-of-way. The road designs shall be submitted to the Township Engineer, the County Drain Commissioner and the Fire Marshall for review and are subject to review and approval of the Township Board. The private road connection to a public road shall have the approval of the road

agency having jurisdiction. The private road pavement shall be sufficient to support the largest fire apparatus available to the South Haven Area Emergency Services and shall be at a minimum 24 feet wide widening to 28 feet every 150 feet from the public road and having a turn-around at the end unless direct connection is provided to another public roadway

- L. Such development shall not be located within the Shoreline Protection Overlay District.

### **SECTION 15.30 - AGRIBUSINESS**

- A. An agribusiness shall be buildings, structures, lots, parcels or parts thereof which are used to provide services, goods, storage, transportation or other activities directly related to the production of agricultural commodities. Permitted agribusinesses are listed below:

1. Agricultural products, production and processing operations.
2. Agricultural products storage facilities.
3. Bulk feed, plant, and nursery stock fertilizer outlets and distribution centers
4. Farm machinery sales, service, rental and repair.
5. Riding stables.
6. Seed and farm plant or nursery stock dealership outlets and distribution centers.
7. Veterinary hospitals, clinics and indoor kennels.

- B. Minimum lot or parcel area shall be five (5) acres and minimum road frontage shall be 300 feet, except as otherwise required for specific uses listed.
- C. All agribusiness uses shall be located at least 330 feet from all RD, LDR, MDR, HDR, and MFR zoning district boundary lines, and existing residential structures located on adjacent properties.
- D. All agribusiness uses shall meet the requirements of the State and County Health Departments for water supply, liquid and solid waste disposal and other applicable health and sanitation requirements.

### **SECTION 15.31 - ACCESSORY FARM DWELLINGS**

Accessory farm dwellings are permitted on land used for agricultural production with the following conditions:

- A. The parcel has a principal farm dwelling located on it.
- B. The farm parcel is at least twenty (20) acres in area for the first dwelling, and an additional twenty (20) acres for each additional dwelling.
- C. The occupants of the accessory farm dwelling meet either one of the following conditions:
  - 1. Have direct family relationship to those persons occupying the principal farm dwelling.
  - 2. Are employees of the occupants of the principal farm dwelling and are engaged in an agricultural occupation on the farm on which the dwelling is located.
- D. Mobile homes shall also meet the requirements of Ordinance 30, "Mobile Home Ordinance."
- E. Dwellings used for this purpose shall have either their own or shall have immediate and unlimited access to all facilities located in the principal dwelling on the farm lot for the maintenance of proper health and sanitation, including potable water and sanitary disposal facilities for solid and liquid wastes.
- F. All accessory dwellings shall be located in conformance with the appropriate setback lines for the yard in which they are located, except that no accessory dwelling shall be located in a front yard of a principal dwelling.
- G. Zoning Permits shall be approved by the Planning Commission and reviewed annually by the Zoning Administrator thereafter for continued need and compliance.
- H. Zoning Permits issued for such use shall terminate at such time that anyone or combination of the above conditions cease to be met.

**SECTION 15.32 CONTRACTOR BUILDING, STRUCTURES, EQUIPMENT AND MATERIALS STORAGE YARDS FOR BUILDING AND OTHER TYPES OF CONSTRUCTION MATERIALS.**

As a Special Use in the CSC (Community Service Commercial) zoning districts, shall conform to the following regulations:

- 1. The minimum lot area shall be 90,000 square feet
- 2. The minimum lot width and depth shall be 300 feet
- 3. Required storage yard setbacks shall be:
  - a. Front setback from street right-of-way 50 feet
  - b. Side setbacks on each side 50 feet
  - c. Rear setback 50 feet
- 4. Screening and buffering shall conform to Section 18.30 when adjacent properties are zoned for any use except HD and I.
- 5. Direct access for all ingress and egress shall be from a Class A road.

### **SECTION 15.33 ELECTRONIC RECEIVING, TRANSMITTING AND RELAY FACILITIES**

Note: **Small-cell distribution or Mini-micro transmission (two or fewer)** antennas mounted upon existing structures and extending no more than **ten (10)** feet above the top of the existing structure are exempt from Special Use requirements and may be approved administratively and may be permitted in any zoning district.

All other transmission towers shall conform to the conditions listed below:

1. The minimum lot size shall be three (3) acres.
2. The lot shall be so located that at least one (1) property line abuts a public thoroughfare and the ingress and egress shall be directly upon said thoroughfare.
3. The front yard setbacks and side and rear yards for each tower from adjacent right-of-ways and/or property lines shall be not less than the height of each tower above the ground.
4. Unless specifically waived by the Planning Commission, an open air fence six (6) feet or more in height shall be constructed on the boundary property lines.
5. Construction plans shall be approved by an engineer licensed by the State of Michigan.

### **SECTION 15.34 MARIHUANA BUSINESS (added 5-1-23)**

In addition to all requirements of Ordinance No. 153, Articles XV (Special Uses) and XXII (Site Plan Review Procedures), and any other requirements of this Zoning Ordinance or Township Ordinances, and any conditions imposed by the Planning Commission in granting special use approval, all adult-use marihuana establishments must comply with the following requirements. All terms defined in Ordinance No. 153 have the same meaning when used in this section.

1. Adult-use marihuana establishments must comply with MRTMA and the MRTMA rules, as well as any other applicable state laws or regulations.
2. Co-located establishments are prohibited.
3. Stacked grower licenses are prohibited.
4. Establishments shall be sufficiently screened or buffered with a fence, wall, or landscape screen to minimize light spillage, odor, and noise (including noise associated with truck traffic or other machinery), affecting adjacent properties.
5. Special use applicants must provide a plan for the storage and disposal of marihuana or chemicals associated with marihuana cultivation, so as to minimize the risk of theft or harm resulting from chemical exposure.

6. No marihuana may be stored overnight outside of an enclosed building. By way of example and without limitation, it is unlawful to store marihuana overnight in an outdoor waste bin or a secure transport vehicle parked outdoors.
7. Signage for establishments may be approved pursuant to the standards provided in Article XXI, with the additional restriction that establishment signage may not depict marihuana, marihuana-infused products, or marihuana-related paraphernalia.
8. Marihuana establishments must control and eliminate odor as follows:
  - a. Any building in which marihuana is stored, processed, or located must be equipped with an activated air scrubbing and carbon filtration system for odor control to ensure that air leaving the building through an exhaust vent first passes through an activated carbon filter and air scrubbing system.
  - b. The filtration system must consist of one or more fans, activated carbon filters and be capable of scrubbing the air prior to leaving any building. At a minimum, the fan(s) must be sized for cubic feet per minute (CFM) equivalent to the volume of the building (length multiplied by width multiplied by height) divided by three. The filter(s) shall be rated for the applicable CFM.
  - c. The air scrubbing and filtration system must be maintained in working order and must be in use at all times. The filters must be changed per manufacturers' recommendation to ensure optimal performance.
  - d. Negative air pressure must be maintained inside the building.
  - e. Doors and windows must remain closed, except for the minimum time length needed to allow people to ingress or egress the building.
  - f. An alternative odor control system is permitted if the special use applicant submits a report by a mechanical engineer licensed in the state of Michigan sufficiently demonstrating that the alternative system will eliminate odor as well or better than the air scrubbing and carbon filtration system otherwise required.
9. The following minimum-distancing regulations apply:

- a. 1,000 Feet from K-12 Schools (Measured Parcel to Parcel). An establishment may not be located within 1,000 feet of an existing public or private K-12 school. The distance in this subsection is computed by measuring a straight line from the nearest property line of land used for an existing public or private K-12 school to the nearest property line of the parcel used as a marihuana establishment.
  - b. 100 Feet Setback from Parcel with Dwelling.
    1. An establishment building must be set back 100 feet from the property line of any adjacent parcel with an existing Dwelling. This setback requirement applies only to the property line abutting a parcel with an existing Dwelling.
    2. If a parcel with an existing Dwelling is located immediately across a street from the parcel with the marihuana establishment, then the establishment building must be set back 100 feet from the property line of the parcel on which the marihuana establishment is located that is closest to the parcel with the existing Dwelling.
10. The following additional requirements apply to provisioning centers and retailers:

Operational Requirements

- a. Provisioning centers and retailers may not be open to customers between the hours of 9:00 p.m. and 9:00 a.m.
- b. Provisioning centers and retailers may not receive deliveries between the hours of 8:00 p.m. and 7:00 a.m.
- c. The interior of the establishment must be arranged in a way such that neither marihuana nor marihuana-infused products are visible from the exterior of the facility.
- d. Consumption of marihuana shall be prohibited in the retail establishment, and a sign shall be posted on the premises of each retail center indicating that consumption is prohibited on the premises.
- e. Provisioning centers and retailers shall continuously monitor the entire premises on which they are operated with surveillance systems that include security cameras. The video recordings shall be maintained in a secure, off-site location for a minimum period of 14 days.

- f. Provisioning centers and retailers shall install, maintain, and consistently use a security alarm system that meets industry standards for building and inventory security.
  - g. The public or common areas of the provisioning center or retailer must be separated from restricted or non-public areas.
  - h. No drive-through window on the portion of the premises occupied by a provisioning center or retailer shall be permitted.
  - i. Provisioning centers and retailers shall not allow the sale, consumption, or use of alcohol or tobacco products on the premises.
11. Special Use Permit Specific to Applicant.
- a. Any special use permit granted for an adult-use retailer is unique and specific to the applicant and does not run with the land.
12. Violations; Remedies; Revocation.

Notwithstanding any other provision in this Zoning Ordinance to the contrary, penalties for violations of this subsection shall be as follows:

- a. If at any time an establishment violates the Zoning Ordinance, any condition imposed through a special use permit, or any other applicable Township ordinance or state law or regulation, the Township may take any or all of the following actions:
  - a. The Township may request that LARA revoke or refrain from renewing the establishment's state operating license.
  - b. Following notice and a public hearing, the Township may revoke the establishment's special use permit.
  - c. The Township may treat the violation as a municipal civil infraction, for which each day the violation continues will be a separate offense, and impose the following fines:
    - First violation = \$500
    - Second offense = \$2,500
    - Each subsequent offense = \$5,000
  - d. The Township may seek other appropriate and proper remedies, including actions in law or equity.